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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA,)	Case 1:18-cr-00457
)	
Plaintiff,)	
)	
v.)	Alexandria, Virginia
)	July 16, 2019
BIJAN RAFIEKIAN,)	9:09 a.m.
)	
Defendant.)	Day 2
)	Pages 78 - 206

TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE ANTHONY J. TRENGA
UNITED STATES DISTRICT COURT JUDGE
AND A JURY

COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

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I N D E X

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1 (The jury is not present.)

2 THE CLERK: Criminal Case 1:18-cr-457, *United*
3 *States v. Bijan Rafiekian*.

4 Counsel, will you please note your
5 appearances for the record.

6 MR. GILLIS: Good morning, Your Honor. Jim
7 Gillis, Evan Turgeon, and John Gibbs for the United
8 States, along with Katie Sweeten, Special Agent Bryan
9 Alfredo, and, again, our excellent paralegal, Latoya
10 Horsford.

11 THE COURT: Welcome.

12 MR. MACDOUGALL: Good morning, Your Honor.
13 Mark MacDougall for the defendant, Bijan Rafiekian.
14 Mr. Rafiekian is here in the courtroom. I'm here with
15 my cocounsel, Robert Trout, Stacey Mitchell, and James
16 Tysse.

17 THE COURT: All right. Very good.

18 Are there any issues that either side would
19 like to raise?

20 MR. GILLIS: Not yet, Your Honor.

21 THE COURT: All right.

22 MR. MACDOUGALL: Just one, Your Honor, and it
23 may not require being addressed this morning.

24 THE COURT: Yes.

25 MR. MACDOUGALL: On late Friday, the

1 government declassified two items that had been the
2 subject of CIPA litigation. Those are now in a form
3 that I understand have no restrictions on their use
4 other than the rules of evidence. We believe that they
5 are effectively substitutions that at the appropriate
6 time we would ask to be published to the jury in that
7 form. Obviously, by the time they were declassified,
8 it was too late to try to obtain through *Touhy* or some
9 other means a witness to testify. So we'd ask the
10 Court's permission at the appropriate time to publish
11 both of those statements.

12 THE COURT: All right. Could you provide the
13 Court with what was agreed upon as the declassified
14 version?

15 MR. MACDOUGALL: Yes, Your Honor. We'll
16 submit that today. Thank you.

17 MR. GILLIS: They won't need a sponsor for
18 those, Your Honor. At the appropriate time during
19 their case, they can introduce them.

20 THE COURT: All right. Very good.

21 Are we anticipating any objections to any of
22 the exhibits that you anticipate presenting today? Do
23 you know what those are?

24 MR. GILLIS: I hope not, Your Honor.

25 THE COURT: Okay. All right.

1 MR. MACDOUGALL: Your Honor, we anticipate,
2 to the extent that the issue of coconspirator
3 statements comes into play, that we will be objecting
4 to those. And not knowing what the witnesses are going
5 to offer, we can't say what those are yet.

6 THE COURT: All right. Anything else?

7 MR. GILLIS: No, Your Honor.

8 THE COURT: All right. We'll reconvene just
9 as soon as the jury is ready.

10 All right. The Court will stand in recess.

11 (Recess from 9:12 a.m. until 9:44 a.m.)

12 (The jury is present.)

13 THE COURT: Good morning. I hope everybody
14 had a restful evening. We're now ready to proceed with
15 the government's case.

16 Mr. Gillis, call your first witness.

17 MR. GILLIS: Thank you, Your Honor. The
18 government calls Jeffrey M. Olson.

19 THE COURT: All right.

20 Mr. Olson will come forward, please.

21 Mr. Gillis.

22 MR. GILLIS: Thank you, Your Honor.

23 JEFFREY M. OLSON, PLAINTIFF'S WITNESS, AFFIRMED

24 DIRECT EXAMINATION

25 BY MR. GILLIS:

Olson - Direct

1 Q Could you please tell us your name, sir.

2 A Jeffrey M. Olson.

3 Q And where do you work?

4 A I work at the U.S. Department of Justice in the
5 Office of International Affairs.

6 Q And what does the international affairs do?

7 A Our office is the main office in the Department of
8 Justice handling all international extradition and
9 mutual legal assistance matters.

10 Q And your position there is what?

11 A I'm the associate director in charge of a team
12 that covers all of Africa, Asia, and the Middle East.

13 Q Does that include Turkey?

14 A It does.

15 Q And as part of your job -- well, actually, you
16 mentioned the Mutual Legal Assistance Treaty. Is it
17 also known as an MLAT?

18 A That's an MLAT, correct.

19 Q Could you explain to the jury what an MLAT is,
20 please.

21 A An MLAT is a treaty allowing for the formal
22 exchange of evidence for use in criminal investigations
23 or prosecutions between two sovereign governments.

24 Q And is that a tool that's available only in
25 criminal investigations?

Olson - Direct

1 A Yes.

2 Q When the United States makes an MLAT request to a
3 foreign country, what must it say about its
4 investigation?

5 A It must say it's investigating criminal charges.

6 Q And does it need to support with information what
7 those criminal charges are?

8 A It needs to give some explanation of the nature of
9 the investigation and the charges against an individual
10 or individuals.

11 Q Would that include the facts that are -- that gave
12 rise to the charges --

13 A Yes.

14 Q -- or the investigation?

15 A It would -- right, that's correct.

16 Q So an MLAT would be available before any charges
17 are brought against someone?

18 A Correct.

19 Q During the course of an investigation?

20 A Correct.

21 Q Now, where does an MLAT request go?

22 A An MLAT request --

23 Q Sorry. From the United States, where would it go?

24 A It goes from my office, the Office of
25 International Affairs, to our counterparts in the

Olson - Direct

1 foreign countries, the ministry of justice.

2 Q So in the foreign government's ministry of
3 justice?

4 A Correct.

5 Q As part of your duties, do you also oversee
6 extradition requests from foreign countries?

7 A I do.

8 Q And could you tell us briefly what an extradition
9 request is?

10 A An extradition request is a formal request seeking
11 the arrest and extradition of an individual wanted for
12 crimes or to serve a sentence from overseas.

13 Q Are you familiar with someone named Fethullah
14 Gulen?

15 A I am.

16 Q Can you tell us who he is?

17 A Mr. Gulen is an imam. He is a writer and a
18 political figure. He runs a network of schools and
19 charities throughout the world.

20 Q Does that include in the United States?

21 A Yes.

22 Q And do you know where he lives?

23 A He lives in Pennsylvania in the United States.

24 Q And do you know what his status is in the United
25 States?

Olson - Direct

1 A I don't know his status, no.

2 Q Do you know how long he's been living in the
3 United States --

4 A I understand --

5 Q -- possibly?

6 A I understand he's been in the United States for
7 the last two decades.

8 Q At some point, did you become involved in
9 discussions with the government of Turkey concerning
10 Mr. Gulen?

11 A I did.

12 Q And when did those discussions start?

13 A In approximate late 2015, early 2016. The
14 ministry of justice informed us that they were
15 preparing an extradition request for Mr. Gulen.

16 Q So what was the basis for that? What was the
17 nature of the discussions? If you could, sort of
18 summarize them at the initial phase.

19 A At that point, the Turkish government believed
20 that Mr. Gulen and his followers were creating a
21 parallel state whose main objective was to overthrow
22 the Turkish government.

23 Q And did they talk to you about extradition?

24 A They did.

25 Q Had they made an extradition request at that

Olson - Direct

1 point?

2 A Not for Mr. Gulen, no.

3 Q And who was president of Turkey at the time?

4 A The president was Recep Tayyip Erdogan.

5 Q Could you take a look, please, at Government
6 Exhibit 5. It will appear in the binder. I was going
7 to say on your screen but...

8 Can you tell us what that is?

9 A That's President Erdogan.

10 Q It's a photograph?

11 A Yes.

12 MR. GILLIS: Your Honor, I move to admit
13 Government's Exhibit 5.

14 THE COURT: Any objection?

15 MR. MACDOUGALL: No objection, Your Honor.

16 THE COURT: Without objection, Exhibit 5 is
17 admitted.

18 MR. GILLIS: May we display it to the jury?

19 THE COURT: Yes.

20 BY MR. GILLIS:

21 Q Could you then look, please, at Government's
22 Exhibit 4? Do you have it in front of you?

23 A Yes.

24 Q What is that?

25 A That's a photograph of Fethullah Gulen.

Olson - Direct

1 MR. GILLIS: I move to admit 4, Your Honor.

2 THE COURT: Any objection?

3 MR. MACDOUGALL: No objection.

4 THE COURT: Without objection, Government's
5 Exhibit 4 is admitted.

6 BY MR. GILLIS:

7 Q Could you tell the jury what the history had been
8 between President Erdogan and Mr. Gulen?

9 A Yes. At one point, Erdogan and Gulen had been
10 political allies. But over the course of the years,
11 they had had a falling out, and Mr. Erdogan began to
12 accuse Mr. Gulen and his followers of trying to
13 overthrow the government.

14 Q And during your discussions with the Turkish
15 government, what was the gist of the crimes that they
16 said Gulen had committed?

17 A The Turkish government was alleging that he led an
18 armed terrorist organization and that he had committed
19 a whole series of different crimes, from embezzlement
20 and fraud and money laundering, as part of he and his
21 network's efforts to create this parallel state to
22 overthrow the government.

23 Q And what was the parallel state that the Turkish
24 government was alleging?

25 A It was alleging that Gulen and his followers had

Olson - Direct

1 infiltrated main branches of the government from the
2 judiciary to the police forces to a wide range of
3 organizations within the Turkish government.

4 Q In these discussions with the Turkish government,
5 how did they characterize Mr. Gulen?

6 A They characterized him as what they called a
7 terrorist and the leader of a terrorist organization.

8 Q Did they compare him to anybody?

9 A They compared him to Osama bin Laden.

10 Q In what way?

11 A They said he was the lead terrorist who was trying
12 to overthrow the country, much like bin Laden was
13 attempting to overthrow the government of the United
14 States.

15 Q And in those discussions, was there any mention of
16 Gulen-related schools among those allegations?

17 A As part of those allegations, one part of it was
18 that this network of schools and charitable
19 organizations that Mr. Gulen and his foundation ran was
20 actually part of a operation to support the creation of
21 the parallel state and to raise money, laundering money
22 to support their objectives.

23 Q And did they characterize those organization in
24 some way?

25 A They just characterized them as part of this armed

Olson - Direct

1 terrorist organization.

2 Q Are you familiar with an attempted coup in Turkey
3 that took place on July 15 and 16, 2016?

4 A I am.

5 Q Were there any deaths as a result of that coup
6 attempt?

7 A Several hundred people died. Several thousand
8 were injured.

9 Q And did President Erdogan blame anyone for the
10 attempted coup?

11 A Eventually, President Erdogan accused Fethullah
12 Gulen of being behind the attempted coup attempt --
13 attempted coup.

14 Q And how about any groups affiliated with anyone?

15 A As well as all of Gulen's followers in the
16 Fethullah Gulen movement.

17 Q Up to this point in mid July, at the time of the
18 coup, had the government of Turkey made any formal
19 requests of the United States government for Gulen's
20 arrest or extradition?

21 A Up until the time of the coup, no, they had not
22 made a request, but we had had several conversations
23 with them knowing that they were preparing one.

24 Q Okay. And did anything new happen regarding those
25 discussions after the coup attempt?

Olson - Direct

1 A Yes. Within a few days, we received what we call
2 provisional arrest request from Turkey for the arrest
3 of Mr. Gulen.

4 Q And when did you get that?

5 A That was on July 19, 2016.

6 Q Tell us: What is a provisional arrest warrant,
7 please.

8 A A provisional arrest request, which leads to a
9 provisional arrest warrant, is a creature of an
10 extradition treaty. It's an abbreviated extradition
11 request seeking the arrest of an individual with a view
12 to seeking his extradition following the passage of a
13 formal extradition request.

14 Q Okay. In this case, they were asking for the
15 United States government to arrest Gulen?

16 A Correct.

17 Q Did this request relate to the attempted coup?
18 Pardon me. Did this provisional arrest request relate
19 to the attempted coup?

20 A The underlying facts of the indictment charged in
21 the case did not relate to the coup. It was all
22 conduct in the years leading up to the coup.

23 Q Were you provided with formal charging documents
24 from the government of Turkey against Mr. Gulen?

25 A We were. We received copies of the arrest

Olson - Direct

1 warrants and the indictments.

2 Q And how many were -- sorry. How many of those
3 were there?

4 A There were four different cases based out of
5 Ankara, Bursa, and two cases out of Istanbul.

6 Q And can you tell us what those indictments
7 charged?

8 A Each of the indictments charged a range of
9 offenses from leading an armed -- accusing Gulen of
10 leading an armed terrorist organization, overthrowing
11 the Turkish government, and a range of other offenses
12 which Gulen was accused of orchestrating, as I
13 mentioned, from embezzlement, money laundering to fraud
14 to slander. All sorts of offenses.

15 Q Were these essentially the allegations that it
16 made during your informal discussions before the coup?

17 A Yes.

18 Q And what did you do when you received this formal
19 request for a provisional arrest warrant?

20 A Well, when we received the provisional arrest
21 request on July 19, I immediately assembled a team of
22 attorneys on my team to begin review of the request
23 because it was quite lengthy.

24 Q And about how long did that take? Do you recall?

25 A The review took about -- a little over a day, and

Olson - Direct

1 we came up with a list of questions that we wanted to
2 ask the ministry of justice about the request.

3 Q Okay. And up until that point, had you reached a
4 preliminary conclusion about the request itself?

5 A Within a day, we had assessed that the request was
6 deficient because we felt it lacked probable cause to
7 arrest Mr. Gulen on the charges and that it wasn't
8 sufficiently urgent, which is one of the requirements
9 under the extradition treaty for a provisional arrest
10 request.

11 Q And when you saw it lacked probable cause, what
12 does that mean?

13 A Probable cause means sufficient evidence that a
14 reasonable person would believe that the fugitive
15 accused has committed a crime.

16 Q The conclusion of OIA, Office of International
17 Affairs, was there was not sufficient evidence of that?

18 A At that time, we believed we did not have
19 sufficient evidence to go forward with the request.

20 Q And did you inform the Turkish government of that?

21 A We did the next day.

22 Q And that would have been when?

23 A July 20, 2016.

24 Q And what did you do after that?

25 A We continued review of the request. We had

Olson - Direct

1 conversations with the ministry of justice in Turkey,
2 as well as with representatives from the Turkish
3 embassy here in Washington about the request, and gave
4 them questions about what kind of evidence we would
5 need in order to fulfill the request.

6 Q And when did those happen?

7 A It happened over the course of a few days and
8 months following the receipt of the extradition -- of
9 the provisional arrest request.

10 Q Okay. So after the provisional arrest request and
11 your conclusion that it lacked probable cause, what
12 happened next?

13 A A few days later on July 23, 2016, the State
14 Department received a formal extradition request from
15 Turkey.

16 Q And was that based upon the attempted coup?

17 A It was not based on the attempted coup, but it was
18 based on the four indictments that I mentioned.

19 Q And what did this extradition request consist of?

20 A The extradition request consisted of a number of
21 affidavits and other documents supporting the
22 allegations that Mr. Gulen had orchestrated this
23 parallel state in Turkey.

24 Q And can you quantify about how many documents you
25 received?

Olson - Direct

1 A The documents were in the thousands and thousands
2 of pages in both Turkish and English.

3 Q And what did you do then?

4 A The team of attorneys that we had formed in the
5 office began reviewing the request in detail.

6 Q And in connection with that, did you have
7 discussions with the Turkish government as well?

8 A We did. Over the course of the next several
9 months, we had a number of meetings at various levels,
10 including the working level with Turkish counterparts
11 asking questions, seeking more information in order to
12 work on their request.

13 Q And at some point, did you then reach a conclusion
14 with respect to these thousands of pages in the formal
15 extradition request?

16 A We had formed a preliminary analysis that the
17 request itself, while it contained a lot of pages, did
18 not contain sufficient evidence to establish probable
19 cause for us to extradite Mr. Gulen.

20 Q And did you inform the Turkish government of that?

21 A We did at multiple levels.

22 Q And if you could, explain: Did your efforts
23 include sending anyone to Ankara to speak with the
24 Turkish government there?

25 A It did. We continued to engage our ministry of

Olson - Direct

1 justice counterparts with our questions. In August
2 2016, we sent a team of prosecutors from my office to
3 meet with the prosecutors in Ankara to discuss the
4 requests.

5 Q During those meetings, what sorts of things were
6 you telling them?

7 A We were telling them that we -- well, we had a lot
8 of questions about the request. We did not feel we had
9 enough information, but we wanted to work with them to
10 try to get the evidence together so that we could get
11 sufficient evidence for us to move forward with the
12 request.

13 Q Okay. You mentioned that this continued over the
14 course of some time. When was this all taking place?

15 A This happened within many months after the first
16 receipt of the extradition request, through the fall of
17 2016 into the spring, and thereafter in 2017.

18 Q Ultimately, did the Office of International
19 Affairs reach a conclusion about this formal
20 extradition request that pertained to the four warrants
21 not having to do with the coup, if that's clear enough?

22 A We have continued to work with the Turkish
23 government to establish sufficient evidence for us to
24 be able to move forward, and that conversation is
25 continuing with our colleagues at the State Department.

Olson - Direct

1 Q And so -- but as of -- so what happened next then?

2 Sorry. As part of this process that we're talking
3 about, what was the next significant event?

4 A In October 2016, attorney general, Loretta Lynch,
5 met with the minister of justice of Turkey.

6 Q Actually, if we can, back up for one second.

7 A Sure.

8 Q Was there another request submitted to the --

9 A Yes.

10 Q Okay. Now, do you know when that -- all right.
11 Sorry.

12 What was it that they sent, and when was that,
13 please?

14 A In September 2016, we received another provisional
15 arrest request for Mr. Gulen. This request related
16 specifically to the accusation that he orchestrated the
17 attempted coup in July 2016.

18 Q And do you happen to remember the date in
19 September that that request was --

20 A I believe that was September 9, 2016.

21 Q And then what did you do with that request?

22 A As with the other request, the team of attorneys
23 assigned to work on the request began the review of the
24 request.

25 Q And based upon the documents or information that

Olson - Direct

1 the Turkish government had provided up until that
2 point, what did your office conclude?

3 A We continued to engage with the Turkish government
4 to try to develop evidence so that we might be able to
5 move forward on the provisional arrest request because
6 our preliminary analysis was that it was insufficient
7 for us to proceed.

8 Q Insufficient in what way?

9 A It did not meet probable cause that Mr. Gulen had
10 orchestrated a coup in Turkey.

11 Q And during these discussions, did you inform the
12 government of Turkey of this?

13 A Multiple times.

14 Q And about when would that have taken place?

15 A Within a few weeks of having received the second
16 provisional arrest request. This was ongoing along
17 with a review of the initial extradition request from
18 the Turks related to the precoup conduct.

19 Q Mr. Olson, can you tell me: What is the Council
20 of Ministers in Turkey?

21 A The Council of Ministers is sort of like the
22 president's cabinet here in the United States. It's an
23 advisory body to the president of Turkey.

24 Q And do you know who the prime minister of Turkey
25 was in the summer of 2016?

Olson - Direct

1 A I do. It was Prime Minister Binali Yildirim.

2 Q Could you take a look at Government's Exhibit 14B,
3 please?

4 MR. GILLIS: Your Honor, excuse me. May I
5 have a moment?

6 THE COURT: Yes.

7 BY MR. GILLIS:

8 Q Do you have 14B in front of you?

9 A Yes.

10 Q What is that, please?

11 A That's a photograph of Prime Minister Yildirim.

12 MR. GILLIS: Your Honor, I move to admit 14B.

13 THE COURT: Any objection?

14 MR. MACDOUGALL: No objection, Your Honor.

15 THE COURT: 14B is admitted.

16 MR. GILLIS: Could we publish that?

17 THE COURT: Yes.

18 MR. GILLIS: Thank you, Your Honor.

19 BY MR. GILLIS:

20 Q Do you know who the Turkish foreign minister was
21 in the summer 2016?

22 A Yes.

23 Q Who was that?

24 A The foreign minister was Mevlut Cavusoglu.

25 Q Would you take a look, please, at Government

Olson - Direct

1 Exhibit 9B.

2 A That's a photograph of Mevlut Cavusoglu.

3 MR. GILLIS: I move to admit that, Your
4 Honor.

5 THE COURT: Any objection?

6 MR. MACDOUGALL: No objection.

7 THE COURT: 9B is admitted.

8 BY MR. GILLIS:

9 Q Could you compare the foreign minister of Turkey
10 to a post in the United States government?

11 A The post is similar to that of the secretary of
12 state of the U.S. government.

13 Q And do you know who the Turkish minister of
14 economy was --

15 A I do.

16 Q -- during the summer of 2016?

17 A Yes.

18 Q Who was that, please?

19 A It was Nihat Zeybekci.

20 Q And if you would, please look at Government's
21 Exhibit 14C. Could you tell us what that is?

22 A That's the minister of economy, Nihat Zeybekci.

23 MR. GILLIS: Move to admit 14C.

24 THE COURT: Any objection?

25 MR. MACDOUGALL: No objection.

Olson - Direct

1 THE COURT: 14C is admitted.

2 BY MR. GILLIS:

3 Q Do you know whether Turkish President Erdogan's
4 son-in-law had a position in the Turkish government in
5 the summer 2016?

6 A I do.

7 Q Do you know his name?

8 A His name is Berat Albayrak.

9 Q Would you take a look at Government Exhibit 28A,
10 please.

11 A I don't have that.

12 Q Exhibit 28A you don't have?

13 A I don't have that here.

14 Thank you.

15 MR. GILLIS: Thank you, Mr. Burns.

16 THE COURT SECURITY OFFICER: Sorry about
17 that, Counsel.

18 BY MR. GILLIS:

19 Q Who is that, please?

20 A That's a photograph of Mr. Albayrak. He was the
21 former minister of energy and natural resources for
22 Turkey.

23 MR. GILLIS: And I move to admit Government's
24 Exhibit 28A.

25 THE COURT: Any objection?

Olson - Direct

1 MR. MACDOUGALL: No objection.

2 THE COURT: 28A is admitted.

3 BY MR. GILLIS:

4 Q Are you familiar with something called the Third
5 Bridge?

6 A Yes.

7 Q And can you tell us what that is, please?

8 A The Third Bridge was built in 2016, and before
9 that, it's a span that covers the Bosphorus Strait that
10 connects to Asia and Europe in northeast Turkey.

11 Q Is it regarded pretty much as the divide between
12 Europe and Asia?

13 A It is.

14 Q Do you know how to spell that?

15 A Which part? The strait?

16 Q The strait, I think for me it would be a problem.
17 But Bosphorus actually is --

18 A I believe -- and please correct me if I'm wrong if
19 anybody knows -- B-O-S-P-H-O-R-U-S.

20 Q And I'd ask you to look, please, at Government's
21 Exhibit 20A. Would you tell us what that is, please?

22 A That's the Third Bridge that I mentioned.

23 MR. GILLIS: I move to admit 20A.

24 THE COURT: Any objection?

25 MR. MACDOUGALL: No objection.

Olson - Direct

1 THE COURT: 20A is admitted.

2 BY MR. GILLIS:

3 Q Do you know when the Third Bridge opened?

4 A It opened in approximately August 2016.

5 Q Do you know the date in particular?

6 A I'm afraid I don't.

7 Q Do you know who attended the opening of the --
8 well, obviously, a lot of people attended the opening,
9 but anybody of note in the Turkish government attend
10 the opening?

11 A President Erdogan and Prime Minister Yildirim both
12 attended the opening of the bridge.

13 Q At what levels of government were these
14 discussions about the Gulen extradition taking place
15 between the U.S. government and the Turkish government?

16 A They were being conducted at multiple levels. At
17 the working level, which is my level, the
18 subministerial level, as well as the ministerial level.
19 So the attorney general of the United States.

20 Q Okay. And were there meetings at that high level?

21 A There were.

22 Q And can you tell us when those were and who was
23 involved?

24 A In October 2016, Attorney General Loretta Lynch
25 met with the Turkish minister of justice, Bekir Bozdag.

Olson - Cross

1 Q Okay. After the change in administration, was
2 there another meeting with the attorney general?

3 A Yes. In March 2017, Attorney General Jeff
4 Sessions also met or had a phone call with the minister
5 of justice, Bozdag. And he also met with Foreign
6 Minister Cavusoglu.

7 Q And had the foreign minister been involved in
8 discussions with the U.S. Department of Justice
9 concerning Gulen's extradition?

10 A To some extent, yes.

11 MR. GILLIS: Your Honor, that's all I have.

12 THE COURT: All right. Thank you.

13 Cross, Mr. MacDougall?

14 MR. MACDOUGALL: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. MACDOUGALL:

17 Q Good morning, Mr. Olson.

18 A Good morning.

19 Q My name is Mark MacDougall. I don't think you and
20 I have ever met before. Have we?

21 A I don't think so.

22 Q I'm here representing, along with my colleagues,
23 the defendant in this case, Bijan Rafiekian. I just
24 want to go over a couple of the things that you told
25 Mr. Gillis. You talked in great detail about an

Olson - Cross

1 extradition treaty between the United States and
2 Turkey. That was the bulk of your testimony.

3 A Correct.

4 Q And that's a bilateral treaty; is that right?

5 A Correct.

6 Q That means it goes in both directions?

7 A Correct.

8 Q Turkey asks us for things. It could be evidence.
9 It could be extradition. The United States asks Turkey
10 for things. The same formula?

11 A Correct.

12 Q And the United States has lots of those treaties;
13 doesn't it?

14 A It has a number of them, yes.

15 Q Okay. Some of them -- many of them are bilateral
16 country to country. Some of them are multilateral with
17 large groups of countries all subscribing to the same
18 treaty. Would you agree with that?

19 A Correct.

20 Q Okay. And your office, the Office of
21 International Affairs, handles those requests in both
22 directions?

23 A Correct.

24 Q You are essentially the national office, the
25 national sponsor. What's the term of art that's used

Olson - Cross

1 for that?

2 A The central authority.

3 Q The central authority for the United States.

4 Good. Okay.

5 Now, extradition requests are sometimes granted,
6 and sometimes they're not; is that right?

7 A Yes.

8 Q All in the ordinary course of business?

9 A Yes.

10 Q And in this case, your office denied the request
11 for the extradition of Mr. Gulen?

12 A No.

13 Q I'm sorry?

14 A We did not deny the request.

15 Q You have not acted on it?

16 A We have not made a final decision on the request.

17 Q Okay. Tell me what your current position is, your
18 office's current position on the Gulen extradition
19 request.

20 A Our current position is to continue to work with
21 the government of Turkey to elicit evidence.

22 Q And Turkey followed the procedures in the MLAT in
23 their efforts to obtain the extradition of Mr. Gulen;
24 didn't they?

25 A Yes.

Olson - Cross

1 Q They submitted evidence to your office?

2 A Correct.

3 Q The submitted declarations?

4 A Correct.

5 Q They responded to your questions?

6 A For the most part.

7 Q They did what a bilateral partner is supposed to
8 do in a Mutual Legal Assistance Treaty or an
9 extradition treaty; is that right?

10 A Correct.

11 Q Okay. And rejections happen all the time; don't
12 they?

13 A I don't know about all the time, but they happen
14 from time to time, yes.

15 Q Well, requests from the United States to bilateral
16 and multilateral MLAT partners, other countries with
17 which we have those treaties, are rejected. For
18 example, would you agree that no country in the
19 European Union will extradite anyone to the United
20 States if it's possible that that person will face the
21 death penalty? That's correct; isn't it?

22 A That's my understanding.

23 Q That's true. Well, that's your office, and that's
24 your business. That's true, right?

25 A Right.

Olson - Cross

1 Q Okay. And at the same time, many countries will
2 not extradite their own citizens at all; is that right?

3 A Some countries will not extradite their own
4 citizens, correct.

5 Q And so our request, if there's a possibility of
6 the death penalty, if it's a citizen of a country that
7 doesn't extradite its own citizens -- our requests are
8 rejected just like Turkey's has not been acted on;
9 isn't that right?

10 A That is not exactly correct. Countries may ask
11 for certain assurances from us before they may
12 extradite, such as we would not impose the death
13 penalty.

14 Q But if we won't give them that assurance, that
15 request is not granted; is it?

16 A Probably not, no.

17 Q Probably not.

18 Now, you make your decisions whether to act on an
19 extradition request or not, whether to hold one up or
20 not, whether to continue to work on it or not based
21 upon the law; don't you?

22 A Correct.

23 Q You do it based upon the form of the treaty, the
24 Mutual Existence Treaty, correct?

25 A In terms of the treaty, correct.

Olson - Cross

1 Q And whatever U.S. statutory law may be brought to
2 bear with respect to how that treaty is to be enforced?

3 A Right, and the Constitution as well.

4 Q And the Constitution.

5 So that's the universe of standards that you have
6 in making your decisions about how to treat an
7 extradition request?

8 A Correct.

9 Q Okay. It's not based on PR; is it?

10 A No.

11 Q It's not based on lobbying; is it?

12 A No.

13 Q You don't have lobbyists lining up at your door to
14 say, Please grant or deny this extradition request?
15 You don't even tolerate that; do you?

16 A I won't say that never happens, but that's
17 something that is not necessarily considered.

18 Q And you don't make your decisions based upon that?

19 A Correct.

20 Q And it's not public opinion either? It's not what
21 you read in the newspaper? You don't -- in the middle
22 of assessing an extradition request, you don't read
23 something in the newspaper and say, Wow, that really
24 changes my mind; do you? You follow the law, the
25 treaty, and the Constitution; is that right?

Olson - Cross

1 A That's correct.

2 Q And that's it?

3 A That's correct.

4 Q Okay. Now, Mr. Rafiekian, the defendant in this
5 case, never attempted to persuade your office to
6 approve Gulen's extradition; did he?

7 A I'm not aware of him doing that.

8 Q Never showed up at your door?

9 A I'm not aware of him doing that.

10 Q Never wrote you a letter?

11 A I'm not aware.

12 Q Never came to see you?

13 A I'm not aware.

14 Q You don't even know him, do you, other than from
15 this case?

16 A I don't.

17 Q You don't.

18 Now, in fact, the Gulen case was not unusual
19 except it was very high profile? Is that what made it
20 out of the ordinary?

21 A It was out of the ordinary. It was high profile,
22 and it was quite lengthy.

23 Q Okay. And when the new administration was
24 preparing to take office in December, January into
25 February -- December 2016, January and February of

Olson - Cross

1 2017, this was one of the items that you highlighted --
2 your office highlighted for the transition as an
3 important matter in your office?

4 A We did.

5 Q Because you were asked to tell us: What are the
6 important things going on as the new administration
7 takes office?

8 A Correct.

9 Q Okay. Now, Turkey is a major U.S. ally; isn't it?

10 A As far as I'm aware from my little position, yes.

11 Q But you just described the attention that this
12 matter received all the way up to the attorney general
13 of the United States talking to the minister of justice
14 in Turkey, correct?

15 A Correct.

16 Q Okay. So it was a big deal, and it was a big deal
17 because the Turkish government is an important ally of
18 the United States?

19 A It's an important case, yes.

20 Q Okay. Now, would you agree with me that the
21 Department of State says that Turkey is an important
22 U.S. security partner? Do you agree with that?

23 A Yes.

24 Q That Turkey is engaged in intensive efforts to
25 defeat terrorist organizations both inside and outside

Olson - Cross

1 its borders? Do you agree with that?

2 A That's my understanding.

3 Q The State Department also says Turkey contributes
4 to international security alongside U.S. forces in
5 Afghanistan, the seas bordering Somalia and the
6 Mediterranean, and is a key partner for U.S. policy in
7 the surrounding region. Do you agree with that?

8 A I am not aware of the earlier parts of your
9 statement, but I do agree they are a key partner in the
10 region.

11 Q Okay. Now, it's also -- the government of Turkey
12 is also a government and an administration that has
13 regularly cooperated with the Department of Justice to
14 which you're an official, right?

15 A Yes.

16 Q Actually, the FBI maintains a legat, a legal
17 attaché office, in the embassy in Ankara; isn't that
18 correct?

19 A Correct.

20 Q And isn't it correct that the FBI's efforts as
21 described by the embassy in Turkey cover, with the
22 exception of narcotics investigations which are covered
23 by the DEA, all statutory violations investigated by
24 the FBI and the United States working directly with
25 different departments of the Turkish national police?

Olson - Cross

1 A Correct.

2 Q It's an active relationship?

3 A Correct.

4 Q And it's a good relationship because the United
5 States needs things from Turkey just as Turkey needs
6 things from the United States?

7 A Correct.

8 Q And sometimes we grant them, and sometimes we
9 don't?

10 A Correct.

11 Q And sometimes we wait and decide later?

12 A Correct.

13 Q And that's what's going on here; isn't it?

14 A It's an effort -- the current effort right now is
15 an ongoing effort to work with the Turkish government.

16 Q Now, Mr. Olson, your office, the Office of
17 International Affairs at the Justice Department, also
18 handles mutual legal assistance activities aside from
19 extradition?

20 A Correct.

21 Q And that would include -- often includes requests
22 for evidence and requests for testimony from partners
23 like Turkey that have MLAT relationships with the U.S.?

24 A That's correct.

25 Q And those relationships, just like extradition, go

Olson - Cross

1 in both directions. The United States is seeking
2 evidence from other countries with which it has MLAT,
3 Mutual Legal Assistance Treaty, relationships, and vice
4 versa. Those countries sometimes come to the United
5 States seeking the same evidence?

6 A That's correct.

7 Q Now, the U.S., as you've testified, has a Mutual
8 Legal Assistance Treaty with Turkey, and that's been in
9 effect since January 1981. I don't expect you to know
10 that off the top of your head, but does that sound
11 about right?

12 A That's right, yes.

13 Q It was signed into law by President Jimmy Carter?

14 A Correct.

15 Q I'd like you to please take a look at Defense
16 Exhibit 97 marked for identification. It should be on
17 the screen. Do you recognize that document?

18 A I do.

19 Q What is it?

20 A It's a copy of the extradition and Mutual Legal
21 Assistance Treaty with Turkey.

22 MR. MACDOUGALL: Your Honor, I'd move the
23 admission of Defense Exhibit 97 for identification
24 based upon judicial notice.

25 THE COURT: All right. Any objection?

Olson - Cross

1 MR. GILLIS: No, Your Honor.

2 THE COURT: All right. Without objection,
3 Defense Exhibit 97 is admitted.

4 BY MR. MACDOUGALL:

5 Q Now, Mr. Olson, would you take a look at
6 Section 2, Article 7 of that treaty? Do you have that
7 in front of you?

8 A I'm sorry. Article 7, Section 2 you said?

9 Q Yes.

10 A Okay.

11 Q That provides for the central authority of the
12 United States, which is your office, to collect
13 evidence for criminal cases in Turkey; is that right?

14 A No.

15 Q Okay. Can you find the section that does?

16 A I'm sorry?

17 Q Would you point out to me the section that permits
18 the United States to request the production of evidence
19 in criminal cases in Turkey?

20 A That's a later part of the treaty if you're
21 referring to mutual legal assistance.

22 Q Which section is that?

23 A I think it's further down. I'm afraid I don't
24 know the exact article off the top of my head.

25 Q Have a look at Section 2, Article 24.

Olson - Cross

1 A Okay.

2 Q Contents of requests?

3 A Uh-huh.

4 Q So that provision essentially allows the United
5 States to obtain evidence in criminal cases from the
6 government of Turkey with the assistance of the Turkish
7 government?

8 A Correct.

9 Q And that's what this treaty does in part?

10 A It does.

11 Q And that would include banking records; is that
12 right?

13 A It does.

14 Q So this treaty, the Mutual Legal Assistance
15 Treaty, permits the United States to request assistance
16 of the government of Turkey in obtaining financial and
17 banking records, but the Department of Justice would
18 have to make that request; is that right?

19 A If we needed evidence for a criminal case, yes, we
20 would generally make an MLAT request.

21 Q And that would be done in the ordinary course of
22 your office --

23 A Correct.

24 Q -- of the Turkish government for banking records?

25 A Correct.

Olson - Redirect

1 MR. MACDOUGALL: Nothing further, Your Honor.

2 Thank you.

3 THE COURT: All right. Thank you.

4 Any redirect?

5 REDIRECT EXAMINATION

6 BY MR. GILLIS:

7 Q Mr. Olson, as we mentioned, MLAT requests occur in
8 connection with ongoing investigations?

9 A Correct.

10 Q Those would include investigations being conducted
11 by a grand jury?

12 A Correct.

13 Q And would they be covered by some sort of secrecy
14 requirement?

15 A There's a provision within all MLATs, including
16 the Turkish MLAT, that requests confidentiality for the
17 request itself, as well as anything that's being
18 sought.

19 Q And we make that request why?

20 A When or why?

21 Q Why?

22 A Well, we make that request to preserve the
23 integrity of an ongoing investigation or prosecution.

24 Q And do countries always honor that request for
25 confidentiality?

Olson - Redirect

1 A For the most part, they do, but not always.

2 Q And, in fact, in some countries, do their
3 procedures require that the person involved be notified
4 of the request so that they can contest it?

5 A In some countries, yes, that happens.

6 MR. GILLIS: Nothing further, Your Honor.

7 THE COURT: All right. Thank you.

8 May the witness be excused?

9 MR. GILLIS: Yes, sir.

10 THE COURT: All right. Mr. Olson, you're
11 excused. Do not discuss your testimony outside of the
12 courtroom with any other witness.

13 THE WITNESS: Thank you.

14 THE COURT: The government will call its next
15 witness.

16 MR. GILLIS: Actually, Your Honor, if I could
17 ask Mr. Olson to be subject to recall.

18 THE COURT: All right. Mr. Olson, remain
19 available. You may be subject to recall.

20 THE WITNESS: Yes, sir.

21 (The witness stands aside.)

22 THE COURT: All right.

23 MR. GILLIS: Your Honor, we call Suthahar
24 Nadarajah.

25 THE COURT: All right. Mr. Nadarajah will

Nadarajah - Direct

1 come forward, please.

2 SUTHAHAR NADARAJAH, PLAINTIFF'S WITNESS, AFFIRMED

3 DIRECT EXAMINATION

4 BY MR. GILLIS:

5 Q Good morning, sir.

6 A Good morning.

7 Q Could you tell us your name, please.

8 A My name is Suthahar Nadarajah.

9 Q Mr. Nadarajah, first, am I pronouncing your name
10 correctly?

11 A You are pronouncing it correctly.

12 Q Where do you work, sir?

13 A I work at Covington & Burling.

14 Q And what's your position there?

15 A I am a senior project manager for the litigation
16 support services.

17 Q Are you aware that Lieutenant General Michael T.
18 Flynn and the Flynn Intel Group were clients of
19 Covington?

20 A Yes, that's correct.

21 Q As part your job, did you examine certain Flynn
22 and Flynn Intel Group e-mails that had been stored
23 electronically?

24 A Yes, that's correct.

25 Q What were you asked to do with those e-mails?

Nadarajah - Direct

1 A I was asked to process them and load them into a
2 review platform for associates to review those
3 documents.

4 Q Okay. And what was that program?

5 A The processing software is called Law, L-A-W.

6 Q Yes, sir.

7 A And the review platform is called Ringtail.

8 Q Ringtail?

9 A Yes, Ringtail, R-I-N-G-T-A-I-L.

10 Q Like a raccoon?

11 A Yes.

12 Q And so you said available for the associates to
13 review it. Do you mean associates of the law firm?

14 A Yes, Covington's associates.

15 Q These two programs, Ringtail and Law, are they
16 programs that you've worked with quite a bit?

17 A Yes, I have.

18 Q And can you tell us in not too technical terms
19 since there may be computer programmers on the jury,
20 but none of us all -- we are not all. Could you tell
21 us in not too technical terms what you did using these
22 software packages?

23 A Okay. So when we get the e-mail data, the
24 client's e-mail data, we use the software, Law, to
25 process them. The process involves converting the

Nadarajah - Direct

1 e-mails into separate documents, an e-mail and
2 attachment as separate documents, and then also to
3 extract the metadata -- metadata is like the to, from,
4 CC -- and also to image these documents for production.
5 So all of those steps are done through the processing
6 software called Law.

7 And once Law has completed those steps, all those
8 imaged documents, metadata and everything, gets loaded
9 into the Ringtail database. The Ringtail is the review
10 platform. And once it's on Ringtail, it will be able
11 to -- the associates can review those documents.

12 Q Okay. And are the e-mails contained in any
13 particular sort of file?

14 A E-mails, when we get the e-mails -- usually we get
15 them in PSD format or in-box format. Those are formats
16 where the e-mails are in a container. So the Law
17 processing software basically extracts those e-mails
18 from those containers.

19 Q Is that a common way of storing e-mails in in-box?

20 A Yeah, in-box and PSD is a common way of storing
21 e-mails. That's correct.

22 Q Were some of the e-mails that you reviewed
23 encrypted in some way?

24 A Yes, that is correct.

25 Q And were you able to read them at that time?

Nadarajah - Direct

1 A At that time, we were not able to read them.

2 Q Were you able to decrypt the e-mails at some
3 point?

4 A Yes, at some point we were able to decrypt them.

5 Q And how did you do that?

6 A We were able to contact the encryption software
7 company called Virtru and work with them, and they were
8 able to give us the decryption key. And also, they
9 gave us instructions, step-by-step instructions how to
10 decrypt those e-mails. And then we follow those
11 instructions, and we were able to decrypt the e-mails.

12 Q Have you used the term tool before in connection
13 with this process with Virtru?

14 A No. This was the first time we used -- you mean
15 the decryption tool?

16 Q I mean, is that what they provided to you?

17 A Yeah. It's called a CLI, command line interface.
18 Command line interface, short for CLI.

19 Q And could we refer to that as the decryption tool?

20 A That is correct.

21 Q And did some of the e-mails contain attachments?

22 A That is correct.

23 Q I believe you mentioned it briefly, but could you
24 tell us how the software that you used handles
25 attachments to an e-mail?

Nadarajah - Direct

1 A All right. So the software, how it handles the
2 e-mails and attachments is it always extracts the
3 e-mail, and the very next document will be the
4 attachment. So when it creates a document IED, it will
5 always be the attachment to the parent e-mail.

6 Q And at some point, were you asked to assemble
7 those e-mails for a production of some sort?

8 A Yes, that's correct. So once the associates
9 review the documents, they tag the documents, and they
10 tell me to finalize for production. So I isolate those
11 documents and create a production set.

12 Q Basically, that process is what you call a
13 production?

14 A That is correct. It involves -- it encompasses
15 putting a Bates number to the documents and any
16 confidential label that has to be stamped on the
17 document and also creating a text file for the
18 corresponding document. Those steps are involved when
19 we do a production.

20 Q Okay. And I believe you mentioned a Bates number.
21 Can you tell us what that is, please?

22 A Yes. So when we do a production, each document
23 should get a unique Bates number. So we give a prefix
24 and also a unique number, a stocking number. So the
25 software Ringtail, when it does the production, it

Nadarajah - Direct

1 automatically stamps each document with the Bates
2 number, the prefix and the number. And each page of
3 the document will have this unique Bates number.

4 Q And is that something that you can do also with
5 electronic documents, such as e-mails?

6 A That is correct.

7 Q Did you do that in this case?

8 A That's correct.

9 Q And are those Bates numbers applied sequentially
10 to the documents?

11 A Yes. The Bates numbers are applied sequentially
12 to the documents. That means if you have an e-mail and
13 attachment, the e-mail and attachment would have
14 sequential numbers right after the e-mail.

15 Q And we talked before this today; is that right?

16 A Yes, that's correct.

17 Q Could you look, please, at Government's
18 Exhibit 45 -- I beg your pardon -- 45A, please?

19 A Yes, I'm looking at it.

20 Q Okay. Can you tell us what that is, please?

21 A It's an e-mail that was produced by Covington.

22 Q And how can you tell it was produced by Covington?

23 A Because it has our Bates number that starts with
24 FIG, underscore, EDVA, and the Bates number.

25 Q And who is that e-mail from?

Nadarajah - Direct

1 A It's from Bijan Kian.

2 Q And to whom is it to?

3 A To Ekim Alptekin and Bob Kelley.

4 Q And what is the date of that e-mail?

5 A November 2, 2016.

6 Q Did I ask you the subject of the e-mail?

7 A No.

8 Q What is the subject?

9 A It's "Getting Turkey Wrong."

10 Q And is there an attachment to it?

11 A Yes, it has an attachment.

12 MR. GILLIS: Your Honor, I move to admit 45A.

13 THE COURT: Any objection?

14 MR. TROUT: No, Your Honor.

15 THE COURT: Without objection, 45A is

16 admitted.

17 BY MR. GILLIS:

18 Q And that number in the lower right, the one that
19 begins FIG_EDVA, can you tell us what that is?

20 A That is our Covington Bates numbers that we use to
21 number the documents when we did our production.

22 Q The FIG_EDVA, is that a set of initials that you
23 chose?

24 A Yeah. The case team chose the prefix for the
25 Bates number.

Nadarajah - Direct

1 Q So you provide a different one for each matter?

2 A Yes, that's correct.

3 Q And was the application of this FIG_EDVA Bates
4 number, was it applied to all of the e-mails in the
5 production, all of the attachments?

6 A Yes, that's correct.

7 Q Do you see that Bates stamp that begins *U.S. v.*
8 *Kian*?

9 A Yes.

10 Q Did you put that on there?

11 A No.

12 Q Do you know what that is?

13 A No.

14 Q Now, looking at Government's Exhibit 45A, does it
15 show that it has an attachment?

16 A Yes, it does.

17 Q And where do you see that?

18 A On the top of -- next to the subject line, it has
19 an attachment field, and then it gives the name of the
20 attachment.

21 Q Would you turn to Government's Exhibit 45B,
22 please.

23 A Yes.

24 Q What is that, please.

25 A That is the attachment of the e-mail -- of the

Nadarajah - Direct

1 previous e-mail.

2 MR. GILLIS: Your Honor, I move to admit 45B.

3 THE COURT: Any objection?

4 MR. TROUT: I'm sorry. No.

5 THE COURT: 45B is admitted.

6 BY MR. GILLIS:

7 Q So how can you tell that it's an attachment to
8 45A, the e-mail?

9 A Because it has -- considering the very next Bates
10 number of the parent e-mail. So it would be an
11 attachment to the parent e-mail.

12 Q If you would, look at Government's Exhibit 104A.
13 Do you have it in front of you there, sir?

14 A Yes, I have it.

15 Q Can you tell us what that is?

16 A It's an e-mail from --

17 Q And who is it to?

18 A It's to Bijan.

19 Q And who is it from?

20 A It's from Flynn.

21 Q And what's the date of the e-mail?

22 A The date of the e-mail is September 18, 2016.

23 Q And what is the subject of that e-mail?

24 A The subject is saying -- refers to talking points.

25 MR. GILLIS: Your Honor, I move to admit

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1 104A.

2 THE COURT: Any objection?

3 MR. TROUT: Your Honor, could we approach
4 briefly?

5 THE COURT: Yes.

6 (Conference at the bench, as follows:)

7 THE COURT: Yes.

8 MR. TROUT: Yes. Thank you, Your Honor.

9 Now we're getting into a hearsay issue
10 because this is a statement by Flynn to Alptekin. It
11 may be admitted for a limited purpose, but we have our
12 hearsay objection. We would ask the Court to issue an
13 appropriate limiting instruction until there's a ruling
14 on the hearsay. This is going to be an ongoing issue
15 as there will be other similar situations where
16 Alptekin is making a statement.

17 THE COURT: Right.

18 MR. TROUT: It's one thing, but then there
19 might be a response. We want to make sure that it's an
20 appropriate limiting instruction.

21 MR. GILLIS: Your Honor, yes. We do, at
22 least at this point, ask to admit it for the purpose of
23 the effect on the listener, the defendant.

24 THE COURT: Right.

25 MR. GILLIS: We will, of course, seek to

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1 produce it as substantive evidence.

2 THE COURT: All right. I'm going to admit it
3 with a limiting instruction. Then to the extent we
4 deal with this other issue and it needs to be modified,
5 I can so instruct the jury.

6 MR. GILLIS: Thank you, Your Honor.

7 MR. TROUT: Thank you, Your Honor.

8 (Proceedings continued in open court, as follows:)

9 MR. GILLIS: Your Honor, I move to admit
10 Government's Exhibit 104A.

11 THE COURT: All right. Without objection,
12 Exhibit 104A is admitted.

13 Ladies and gentlemen, the document that I've
14 just admitted is an e-mail communication from Michael
15 Flynn to Mr. Rafiekian. It contains statements by
16 Mr. Flynn to Mr. Rafiekian. As such, these are
17 statements by someone who is not testifying here in
18 court. These are what we call hearsay statements.
19 They are statements by someone who is not testifying in
20 court and subject to cross-examination.

21 So for the purposes of this document, it's
22 not being admitted and you should not consider it as
23 proof of the accuracy or the truth of what is stated in
24 this e-mail. It is being admitted solely for the
25 purpose of establishing what information was conveyed

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1 to Mr. Rafiekian for whatever bearing that may have on
2 the issues in the case.

3 MR. GILLIS: Thank you, Your Honor.

4 BY MR. GILLIS:

5 Q So can you tell us: Does Government's
6 Exhibit 104A have an attachment?

7 A Yes, it does.

8 Q Where do you see that?

9 A On the top of the -- underneath the subject line,
10 you have an attachment field, and it says the name of
11 the attachment.

12 Q Okay. And can you look at Government's
13 Exhibit 104 -- pardon me.

14 MR. GILLIS: I beg your pardon, Your Honor.

15 BY MR. GILLIS:

16 Q Exhibit 104B, can you tell us what that is?

17 A That is an attachment to the previous e-mail.

18 Q And how can you tell that?

19 A From the Bates number, which is the number from
20 the parent e-mail.

21 MR. GILLIS: I move to admit Government's
22 Exhibit 104B.

23 THE COURT: Any objection?

24 MR. TROUT: The same comment.

25 THE COURT: All right. Exhibit 104B is

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1 admitted.

2 Again, ladies and gentlemen of the jury, this
3 is being admitted for the purpose of what information
4 is being provided to Mr. Rafiekian.

5 MR. GILLIS: May we give the jury a moment to
6 review it briefly?

7 THE COURT: Yes, that's fine.

8 All right.

9 MR. GILLIS: Thank you, Your Honor.

10 BY MR. GILLIS:

11 Q If you would, please look at Government's
12 Exhibit 118A, please. Do you have that in front of
13 you?

14 A Yes.

15 Q Can you tell us what that is?

16 A It's an e-mail from Michael Flynn to Bijan Kian.

17 Q And what is the date of that e-mail?

18 A It's October 15, 2016.

19 Q And the subject?

20 A The subject says reference to Inovo.

21 MR. GILLIS: I move to admit 118A, Your
22 Honor.

23 THE COURT: All right. 118A will be admitted
24 with the same limiting instruction as evidence solely
25 of what was provided to Mr. Rafiekian.

Nadarajah - Direct

1 BY MR. GILLIS:

2 Q And, sir, is this, as well as the last exhibits,
3 is this one that came from the Flynn e-mails that you
4 processed?

5 A That is correct.

6 Q And how do you tell that?

7 A From the Bates prefix and the Bates number,
8 FIG_EDVA_000646.

9 Q Please look at Government's Exhibit 118B. Do you
10 have that?

11 A Yes, I have it.

12 Q And can you tell us what that is, please?

13 A It's an attachment to the previous e-mail.

14 Q And how can you tell that?

15 A From the consecutive Bates number from the parent
16 e-mail.

17 MR. GILLIS: I move to admit 118B, Your
18 Honor.

19 THE COURT: All right. Any objection?

20 MR. TROUT: No.

21 THE COURT: Exhibit 118B is admitted.

22 MR. GILLIS: Could we have a moment for them?

23 THE COURT: Yes.

24 All right.

25 BY MR. GILLIS:

Nadarajah - Direct

1 Q Would you, please, look at Government's
2 Exhibit 162. Have you seen that before?

3 A Yes.

4 Q Can you tell us what that is?

5 A These are exhibit numbers of the productions done
6 by Covington.

7 MR. GILLIS: I move to admit Government's
8 Exhibit 162.

9 THE COURT: Any objection?

10 MR. TROUT: No, Your Honor.

11 THE COURT: Without objection, Exhibit 162 is
12 admitted.

13 BY MR. GILLIS:

14 Q Mr. Nadarajah, did you compare the government
15 exhibits from that that are listed there to the
16 production documents by looking at the FIG_EDVA number?

17 A That is correct.

18 Q And so these are all documents from the FIG_EDVA
19 production?

20 A That is correct.

21 MR. GILLIS: Your Honor, I move to admit all
22 of the documents that are listed there in 162.

23 THE COURT: All right. Is there any
24 objection?

25 MR. TROUT: Your Honor, we may have a similar

Nadarajah - Cross

1 objection. I just haven't been able to go through it.

2 THE COURT: All right. I'm going to
3 conditionally admit those subject to your review.

4 MR. TROUT: Thank you.

5 THE COURT: All right.

6 MR. GILLIS: Thank you, Your Honor.

7 Your Honor, that's all I have.

8 THE COURT: All right. Thank you.

9 Mr. Trout.

10 MR. TROUT: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. TROUT:

13 Q Mr. Nadarajah, my name is Bob Trout. I represent
14 Mr. Kian. We haven't met before; have we?

15 A No.

16 Q Now, as I understand it, you were basically in
17 charge of essentially processing all the data that came
18 from Flynn Intel Group; is that correct?

19 A That is correct.

20 Q And there were no restrictions at all on what you
21 could process, what you could review? You were
22 essentially tasked with getting everything and getting
23 it into a reviewable, usable form; is that correct?

24 A Yes.

25 Q And all of these documents came from Flynn Intel

Nadarajah - Cross

1 Group; is that correct?

2 A I can't say that because it was handed over to me
3 from the case team. So they gave us the -- they gave
4 me the in-box of all the data. So I can't confirm that
5 everything came from FIG.

6 Q But your understanding is that you got personal
7 information from Mr. Kian's computer; is that correct?

8 A That is correct.

9 Q Do you know how many e-mails there were that
10 you-all processed from his computer?

11 A I can't recall the numbers.

12 Q Well, was it over 10,000?

13 A No, I can't recall.

14 Q And you also got e-mails from every other one of
15 the individuals that used a Flynn Intel Group computer;
16 is that correct?

17 A I'm not quite sure if I got from all the
18 individuals, but we got some of the custodian e-mail
19 data as well.

20 Q That would include General Flynn?

21 A Yes, that's correct.

22 Q As well as Mr. Kian?

23 A Yes, that's correct.

24 Q Did it include Mr. McCauley? Do you know?

25 A I can't recall his name.

Nadarajah - Cross

1 Q What about Mr. Boston? Do you recall?

2 A I can't recall Boston's name.

3 Q Now, you made mention of the fact that some of the
4 e-mails were encrypted, correct?

5 A That's correct.

6 Q You are aware, are you not, that the issue of
7 cyber security is a very important issue that is a big
8 problem in the United States; is that correct?

9 A That's correct.

10 Q And so it would be unsurprising that companies
11 would be taking steps to increase their cyber security
12 and the security of their data; is that correct?

13 A That's correct.

14 Q So it was unremarkable to you that there would be
15 encrypted e-mails?

16 A That's correct.

17 Q And you were not put on any limitation in terms of
18 the expense involved in trying to decrypt the e-mails;
19 is that correct?

20 A Expense? Can you clarify?

21 Q Well, there was an expense associated with
22 decrypting the encrypted e-mails, correct?

23 A Correct.

24 Q And no one suggested you that you should not go to
25 the expense of getting the data in the encrypted

Nadarajah - Redirect

1 e-mails?

2 A That's correct.

3 Q In fact, they wanted you to decrypt everything,
4 correct?

5 A That is correct.

6 MR. TROUT: Thank you. No further questions.

7 THE COURT: All right. Any redirect?

8 REDIRECT EXAMINATION

9 BY MR. GILLIS:

10 Q Mr. Nadarajah, among the e-mails, was it your
11 understanding that they came either from Flynn Intel
12 Group or from General Flynn but they were all from
13 Covington's client, Flynn or Flynn Intel Group?

14 A Yeah, it's from Covington's client.

15 Q Did I understand you to say that you actually
16 analyzed Mr. Rafiekian's laptop or his individual
17 computers?

18 A No, I did not analyze them.

19 Q You did not?

20 A No.

21 MR. GILLIS: That's all I have, Your Honor.

22 THE COURT: All right. Thank you. May the
23 witness be excused?

24 MR. GILLIS: Your Honor, I would like him
25 subject to recall, please.

Rosecrans - Direct

1 THE COURT: All right. You remain subject to
2 recall. Do not discuss your testimony outside of the
3 courtroom with any other witness.

4 THE WITNESS: All right.

5 (The witness stands aside.)

6 THE COURT: The government will call its next
7 witness.

8 MR. GILLIS: Yes, Your Honor. We call Kim T.
9 Rosecrans, please.

10 THE COURT: All right. Mr. Rosecrans will
11 come forward, please.

12 Mr. Gillis.

13 MR. GILLIS: Thank you, Your Honor.

14 KIM T. ROSECRANS, PLAINTIFF'S WITNESS, SWORN

15 DIRECT EXAMINATION

16 BY MR. GILLIS:

17 Q Sir, would you tell us your name, please.

18 A My name is Kim Rosecrans.

19 Q Mr. Rosecrans, where do you work?

20 A I work for the FBI as an information technology
21 specialist, forensic examiner.

22 Q And when did you start with the FBI?

23 A I joined the FBI in 1998.

24 Q I'm sorry?

25 A In 1998.

Rosecrans - Direct

1 Q Okay. Could you try to keep your voice up, sir?

2 A Okay. Is -- it's not coming?

3 Q No. I just want to make sure that everyone can
4 hear you.

5 A Okay. February of 1998.

6 Q And can you tell us about your background with the
7 FBI, please?

8 A Okay. When I first joined the FBI, I joined a
9 software development project office, and then in
10 October of 2000, I joined the Computer Analysis
11 Response Unit. And I was a tester in the test and
12 evaluation group for the unit.

13 Q Just one moment. If you could, tell us: What
14 does the testing and evaluation unit do?

15 A The CART unit, which is the Computer Analysis
16 Response Team, we test our utilities to make sure that
17 they work as advertised.

18 Q And you were part of the unit that did that?

19 A Yes. I was part of the group within the unit that
20 did that, yes.

21 Q And so -- I'm sorry. Continue, please.

22 A Okay. So then in November 2002, I became a
23 full-time forensic examiner in training. And then in
24 March of 2005, I became a fully-certified CART
25 examiner.

Rosecrans - Direct

1 Q And what do you do now in your current position?

2 A I am a forensic examiner.

3 Q And tell us what you do.

4 A Okay. Forensic examiners in the CART Unit will
5 assist case agents in going to search sites and
6 performing searches for digital media.

7 Q So you yourself go to the place or the residence
8 or the business to be searched?

9 A Yes, sir.

10 Q And you go why?

11 A Say again?

12 Q Why is it that you go on those searches?

13 A To assist in collecting digital evidence.

14 Q And then apart from actually going and seizing the
15 electronic evidence, what else do you do?

16 A We also examine the evidence that would be
17 collected and sometimes -- particularly within my unit,
18 because we are at the headquarters Laboratory Division,
19 we go and actually have evidence sent to us,
20 particularly for the larger cases.

21 MR. GILLIS: Your Honor, I'm sorry. I'm
22 having trouble hearing. Is the microphone -- this one,
23 is that the microphone for the --

24 THE COURT: Can you-all hear the witness?

25 A JUROR: Yes.

Rosecrans - Direct

1 THE COURT: Just try to keep your voice up a
2 little bit.

3 THE WITNESS: Yes, sir.

4 BY MR. GILLIS:

5 Q So how do you handle electronic evidence that is
6 seized during a search?

7 A Typically, we go and image it, if at all possible,
8 right on-site. Sometimes the digital evidence is
9 actually seized, and then it would be processed back in
10 the lab and/or the office that the case agent comes
11 from.

12 Q Okay. And you mentioned imaging a computer. Can
13 you tell us what that is, please?

14 A Yes. That's making an exact copy of, for
15 instance, the laptop hard drive. You can make an exact
16 copy of it so that you can say that any evidence
17 extracted from it, derivative evidence extracted from
18 it is actually something that could be traced back to
19 the original evidence.

20 Q Do you use a software program?

21 A We use a number of utilities to actually image the
22 digital evidence, and then we use other utilities that
23 will help us process it so that the evidence can be
24 reviewed by case agents.

25 Q And are those software programs ones that you work

Rosecrans - Direct

1 with frequently in your profession?

2 A Yes, sir.

3 Q And are they commonly accepted utilities within
4 the computer forensic --

5 A Yes, they are.

6 Q Now, are you familiar with the term "metadata"?

7 A Yes, I am.

8 Q Can you tell us what metadata is, please?

9 A Metadata is a set of data that actually describes
10 or provides more information about data. An example of
11 that would be a file considered data. Metadata for
12 that file would be file size, the creation date.

13 Q Is this metadata information that's always visible
14 to the user?

15 A In some instances, it is. In other instances, it
16 is not just due to the way that a person might have
17 their computer set up.

18 Q And what do you do with this image of the hard
19 drive once you create it?

20 A We process the image -- with a utility that will
21 allow us to provide a viewable rendition of the
22 contents of the, for instance, hard drive.

23 Q Does that system have a -- or that's a computer
24 program?

25 A Yes.

Rosecrans - Direct

1 Q Does it have a name?

2 A In the case that we're here for right now, one of
3 them is AccessData Laboratory.

4 Q And how long have you been working with that
5 program?

6 A Oh, approximately ten years.

7 Q Are you quite familiar with that program?

8 A Yes, I am.

9 Q And is that one also that is accepted within the
10 forensic science community?

11 A Yes, it is.

12 Q Do you also examine evidence that is obtained from
13 e-mail accounts?

14 A Yes.

15 Q And how do you do that?

16 A Once again, one of the programs that we use is the
17 AccessData Lab program, and it will provide -- it will
18 basically provide a viewable rendition of the data as
19 you might see it on your computer if you were looking
20 at it.

21 Q And would that include attachments that came with
22 the e-mail?

23 A Yes, if there were attachments there.

24 Q They would be associated with the e-mail?

25 A Yes.

Rosecrans - Direct

1 Q And so the e-mails, ultimately when you process
2 them, would be viewable to the agent or to you as they
3 would appear to the original user; is that correct?

4 A Yes.

5 Q Now, what about in the case of e-mails that are
6 encrypted?

7 A For those, the encrypted portion may not show up
8 in the e-mail. And if it did show up, it would look
9 like a string of characters that you couldn't make any
10 sense of. But what we do there is typically we try to
11 decrypt it.

12 Q Okay.

13 A And decrypting it just makes it into something
14 that is viewable for the case agent, once again.

15 Q In the same fashion that we talked about before?

16 A Yes.

17 Q Including the attachments?

18 A Yes.

19 Q And then what does the program that the agents
20 have access to in a way that the user would see it,
21 what kinds of things could the agents do with those
22 e-mails?

23 A Okay. So what we have is -- for the FBI, we've
24 set up a system where they can view the information
25 using a virtual machine. Basically, the virtual

Rosecrans - Direct

1 machine presents a desktop just like you would have on
2 a computer, and they then have access to those bits of
3 data and evidence that are on the network that are
4 associated with the case.

5 Q Would they be able to perform word searches?

6 A Yes. The utility is then set up so that the case
7 agent can view the information, and that utility is,
8 once again, AccessData Lab.

9 Q And could they be sorted by date order?

10 A Yes, it can be sorted. You can do searches, live
11 searches. You can do index searches because it indexes
12 all the information.

13 Q And how about sorting by the sender or the
14 recipient? Can you do that as well?

15 A Yes, you can do that too.

16 Q Did you work with electronic data in connection
17 with the investigation that brings us to court today?

18 A Yes.

19 Q And did you examine laptop computers that have
20 been seized from Bijan Rafiekian?

21 A Yes, I did, two of them.

22 Q I beg your pardon?

23 A There were two of them.

24 Q Did you examine any Gmail accounts belonging to
25 the defendant?

Rosecrans - Direct

1 A Yes, I did.

2 Q And did you examine any Gmail accounts belonging
3 to Ekim Alptekin?

4 A Yes, I did.

5 Q And did you use the same process that you've
6 described to prepare the defendant's laptops for review
7 by the agents?

8 A Yes.

9 Q And did you make that data available to the agents
10 who are working on this investigation?

11 A Yes, I did.

12 Q Were there e-mails on the defendant's two laptops?

13 A Yes.

14 Q Were those encrypted?

15 A Some of them were probably encrypted. Some were
16 out in the open.

17 Q And were you able to decrypt the e-mails that were
18 encrypted?

19 A The e-mails that I decrypted came from the Google
20 returns.

21 Q Actually, before you go on there, let me ask you
22 another question. I'm just really asking a yes or no
23 question. Were you able to decrypt the e-mails that
24 you found on the defendant's two computers?

25 A There were no e-mails that I can remember offhand

Rosecrans - Direct

1 that were encrypted on the computers themselves.

2 Q Okay.

3 A I almost have to say that -- yes, there were
4 because they made reference to the Virtru software, and
5 as a result of working with the Virtru contractor, we
6 were able to distinguish some that were actually
7 encrypted. It's just that we did not encrypt the
8 e-mails from the laptops.

9 Q Were some of the e-mails on the Gmail accounts?

10 A Yes.

11 Q Well, let's start with the defendant's Gmail
12 accounts. Were some of those encrypted?

13 A Yes.

14 Q E-mails on Alptekin's Gmail account, were those
15 encrypted?

16 A Yes.

17 Q And were you eventually able to decrypt those
18 e-mails?

19 A Yes.

20 Q All of them?

21 A The majority of them. There were some that --
22 when we were working with the Virtru representative, we
23 got software from them. They gave us the keys. We
24 were able to decrypt a majority of the e-mails. There
25 were some e-mails that we could not decrypt, and the

Rosecrans - Direct

1 representative there said that it was probably due to
2 the fact that there were users there that also --

3 MR. TROUT: Objection, Your Honor.

4 THE COURT: Sustained.

5 BY MR. GILLIS:

6 Q So in working with the encryption company, did you
7 learn that the tool that you used was an updated
8 version of that that had been used on the FIG_EDVA
9 e-mails that you saw?

10 A Yes.

11 Q What is it that you learned?

12 A That it was, in fact, a newer version. They had
13 indicated to me that they were continuously in the
14 process of updating their software.

15 Q Did you find e-mails between Alptekin and the
16 defendant on the defendant's laptops?

17 A Yes.

18 Q And how about in the Gmail accounts of the
19 defendants?

20 A Yes.

21 Q And did you find e-mails between them on
22 Alptekin's Gmail account?

23 A Yes.

24 Q Did those include attachments that came with the
25 e-mails?

Rosecrans - Direct

1 A Yes.

2 Q And on Alptekin's Gmail account, were you also
3 able to see e-mails from others at the Flynn Intel
4 Group that had been sent to or from him?

5 A Yes.

6 Q Were you asked to find on the defendant's Gmail
7 account certain exhibits that we planned to introduce
8 today at trial?

9 A Yes.

10 Q And were you asked to find on Alptekin's Gmail
11 account certain exhibits that we planned to introduce
12 at trial?

13 A Yes.

14 Q And did you prepare a chart of those exhibits and
15 where they were found?

16 A Yes, I did.

17 Q Would you, please, take a look at Government's
18 Exhibit 68. Can you tell us what that is, please?

19 A This is a listing of the government exhibits and
20 where they were found, the defendant's Gmail,
21 Alptekin's e-mail, the defendant's MacBook Pro, which
22 has a 1B4 label, and the defendant's MacBook Pro that
23 has a 1B5 label.

24 Q As long as we're on the subject, can you tell us
25 what 1B4 and 1B5 pertain to?

Rosecrans - Direct

1 A Those were the MacBook Pros that were provided by
2 one of the case agents, and they were the ones that
3 were processed for this case.

4 Q Okay. Thank you, sir.

5 So you have one of them labeled 1B4, and one of
6 them labeled 1B5?

7 A It's just the way in which the FBI labels some of
8 the evidence.

9 Q One for one computer, and one for another?

10 A Yes, sir.

11 MR. GILLIS: Can I have one moment, Your
12 Honor?

13 THE COURT: Yes.

14 (Counsel confer.)

15 MR. GILLIS: Your Honor, the witness will be
16 referring back to Government's Exhibit 68. If I could,
17 with counsel's permission, I would like for the witness
18 to be able to have access to it during his testimony.

19 THE COURT: That's fine.

20 MR. GILLIS: If I could give it to Mr. Burns,
21 please.

22 Thank you, sir.

23 BY MR. GILLIS:

24 Q In your examination of the defendant's computers,
25 did you find any text messages?

Rosecrans - Direct

1 A Yes.

2 Q And was there any particular software used in
3 that?

4 A Well, for the special type of text messaging that
5 we got, which was the Skype chats.

6 Q Okay. And did you process those Skype chats in
7 more or less the same way as you did the e-mails?

8 A Yes. I used the laboratory. We were able to
9 extract the conversations that were of interest to the
10 case agent.

11 Q And where did you find those Skype chats?

12 A On 1B5.

13 Q And that refers to the defendant's computer?

14 A Yes.

15 Q And did you prepare a list of the exhibit numbers
16 corresponding to those Skype chats?

17 A Yes, I did.

18 Q Would you take a look, please, at Government
19 Exhibit 163. Can you tell us what that is?

20 A That is a list of the Skype chats that are
21 separated by each interaction that they had with each
22 other in a short period of time, a conversation.

23 Q I may have misspoke. That's Government's
24 Exhibit 163?

25 A This is 163, yes, sir.

Rosecrans - Direct

1 MR. GILLIS: I move to admit that, Your
2 Honor.

3 THE COURT: Any objection?

4 MR. TROUT: We don't have an objection to
5 163, Your Honor.

6 THE COURT: All right. Exhibit 163 is
7 admitted.

8 Are we offering 68 as well?

9 MR. GILLIS: Yes, Your Honor.

10 THE COURT: Any objection to 68?

11 MR. TROUT: No, Your Honor.

12 THE COURT: All right. Exhibit 68 is
13 admitted as well.

14 BY MR. GILLIS:

15 Q So could I ask you now to look at Government's
16 Exhibit 9, please. When you find it, would you tell us
17 what it is, please.

18 A This is an e-mail from Alptekin to Rafiekian, and
19 the date of it is 7/29/2016 at 1:21 p.m.

20 Q And the subject?

21 A The subject is "response all good to go."

22 Q You mean re?

23 A Re. Excuse me. Re.

24 Q When there's a reply to it, that's what we get.
25 Okay.

Rosecrans - Direct

1 MR. GILLIS: Your Honor, I offer Government's
2 Exhibit 9.

3 THE COURT: Any objection?

4 MR. TROUT: Just the same limitation, Your
5 Honor.

6 THE COURT: All right. Exhibit 9 is admitted
7 solely for the purpose of establishing what
8 Mr. Rafiekian received, the information he received,
9 and not for the truth of what's stated in this e-mail.

10 MR. GILLIS: May we give the jury a moment to
11 read the document?

12 THE COURT: Yes.

13 BY MR. GILLIS:

14 Q Sir, would you look at Government's --

15 MR. GILLIS: May I proceed, Your Honor?

16 THE COURT: Yes.

17 BY MR. GILLIS:

18 Q Would you look, please, at Government's
19 Exhibit 14, please. When you find it, would you tell
20 us what it is, please.

21 A This is also an e-mail from Alptekin to Bijan Kian
22 and a copy to Michael Flynn. The date of it is Monday,
23 August 8, 2016, at 12:36 p.m. and 43 seconds.

24 MR. GILLIS: First of all, Your Honor, may I
25 ask that Government's Exhibit 9 be put back up on the

Rosecrans - Direct

1 screen?

2 And I move to admit Government's Exhibit 14.

3 THE COURT: All right. Government's
4 Exhibit 14 will be admitted, again, for the same
5 limited purpose of showing what information was
6 received by Mr. Rafiekian.

7 MR. GILLIS: And if I could ask that the two,
8 9 and 14, be shown side-by-side?

9 THE COURT: Yes.

10 MR. GILLIS: May we give the jury a moment
11 the read Government Exhibit 14, please?

12 THE COURT: All right. Mr. Gillis.

13 MR. GILLIS: Yes, sir.

14 BY MR. GILLIS:

15 Q Where did you find Government's Exhibit 14?

16 A Government's Exhibit 14 was found in Alptekin's
17 e-mail.

18 Q And would you, please, turn to Government's
19 Exhibit 15. And when you find it, would you, please,
20 tell us what that is.

21 A This is also an e-mail from Ekim Alptekin and to
22 Bijan Kian, copy to Michael Flynn. The date is
23 Thursday, August 4, 2016, at 5:11:17 a.m.

24 Q And I think we can dispense with the time. I'm
25 more interested in the date for the time being.

Rosecrans - Direct

1 A Okay.

2 MR. GILLIS: And so I move to admit
3 Government's Exhibit 15.

4 THE COURT: All right.

5 MR. TROUT: The same limitation.

6 THE COURT: Government's Exhibit 15 is
7 admitted for the same limited purpose.

8 BY MR. GILLIS:

9 Q Where did you find Government's Exhibit 15?

10 A That was found on Alptekin's Gmail.

11 Q Would you, please, take a look at Government
12 Exhibit 16. Tell us what that is.

13 A Once again, that's an e-mail from Alptekin to
14 Rafiekian, and the date is 8/10/2016.

15 MR. GILLIS: I move to admit Government
16 Exhibit 16, Your Honor.

17 THE COURT: Government's 16 is admitted for
18 the same limited purpose.

19 MR. GILLIS: And can we show the jury 16 and
20 give them a moment to read it, please?

21 THE COURT: Yes.

22 BY MR. GILLIS:

23 Q Where did you find Government's Exhibit 16?

24 A Government's Exhibit 16 was found in Alptekin's
25 Gmail.

Rosecrans - Direct

1 MR. GILLIS: Then, Your Honor, if I could ask
2 to have 15 and 16 shown side-by-side?

3 THE COURT: All right. You may do that.

4 BY MR. GILLIS:

5 Q Would you take a look, please, at Government's
6 Exhibit 17. Do you have that in front of you?

7 A Yes, I do.

8 Q What's the subject, please? What's the subject of
9 that e-mail?

10 A Re: Welcome back.

11 Q And would you tell us the date, the to, the from.

12 A That was 8/11/2016.

13 MR. GILLIS: I move to admit Government's
14 Exhibit 17 --

15 THE COURT: All right.

16 MR. GILLIS: -- and ask that the jury be
17 allowed to read it for a moment.

18 THE COURT: Any objection?

19 MR. TROUT: Your Honor, not to this
20 particular e-mail, but it's part of a chain. There are
21 some other e-mails that Mr. Kian did not write that
22 would be subject to the same limitation.

23 THE COURT: All right. Government's
24 Exhibit 17 will be admitted.

25 All right. Thank you, Mr. Gillis.

Rosecrans - Direct

1 We're going to take our morning recess at
2 this time. We'll have a 20-minute recess, and we will
3 reconvene.

4 During the recess, do not discuss this case
5 among yourselves.

6 (The jury exits at 11:24 a.m.)

7 THE COURT: All right. We'll stand in
8 recess.

9 Mr. Rosecrans, do not discuss your testimony
10 during the recess.

11 (Recess from 11:25 a.m. until 11:49 a.m.)

12 (The jury is present.)

13 MR. GILLIS: Your Honor, may we approach for
14 a moment?

15 THE COURT: Yes.

16 (Conference at the bench, as follows:)

17 THE COURT: All right. Mr. Gillis.

18 MR. GILLIS: Your Honor, our colleagues have
19 noticed that some of the jurors appear not to be able
20 to see the screen adequately to view it. It's
21 important for them to see the documents in context. I
22 was going to ask the Court's permission for a little
23 more time for them to read them. At the same time, I
24 would read certain portions for those that may not be
25 able to see them.

Rosecrans - Direct

1 THE COURT: Well, they're coming up on the
2 larger screen there as well; aren't they?

3 MR. GILLIS: They are, but it appears that
4 some -- for example, some of the folks on that side,
5 particularly those that are a little more closer to my
6 age, aren't able to see that far or see the one in
7 front of them. So what I propose to do is to read
8 certain portions while it's up on the screen.

9 This witness is taking a little longer than I
10 expected, but the rest of them should go more quickly,
11 especially since we are getting the exhibits in for
12 these purposes. So I would ask the Court's indulgence
13 for that.

14 THE COURT: Do you have anything to
15 contribute to this?

16 MR. TROUT: A little bit of my concern is the
17 completeness issue.

18 THE COURT: Right.

19 MR. TROUT: For example, on some of the
20 documents that we have already looked at, they have
21 highlighted a certain portion and left off -- you know,
22 because that's what they want to highlight. They have
23 left off other parts, including, for example, responses
24 or whatnot that may put it all in a better context. So
25 I am concerned about kind of the completeness aspect of

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1 specifically reading one little segment without reading
2 the whole thing.

3 MR. GILLIS: Your Honor, I think that could
4 be addressed on cross-examination.

5 THE COURT: All right. Can you expand the
6 portion on the screen so it appears larger?

7 MR. GILLIS: Yes, but there's still some
8 limitation for the ones on this side. So if I could
9 read certain portions of that. Then, if necessary,
10 they can read other portions of it on
11 cross-examination.

12 THE COURT: All right. I don't want to get
13 in too much of this. I'll let you do it with respect
14 to very discrete sections of it.

15 MR. GILLIS: Yes, sir.

16 THE COURT: During cross, you can have the
17 witness read a portion that you think is necessary to
18 put it into context. I don't want to do too much of
19 this. So be very judicious in what you want them to
20 read.

21 MR. GILLIS: Yes, sir.

22 THE COURT: Okay.

23 MR. GILLIS: Okay. Thank you.

24 THE COURT: How much longer do you have with
25 him on direct?

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1 MR. GILLIS: I'm guessing about another --
2 well, as I was telling Mr. Trout, I have 12 pages. I'm
3 on page 6.

4 THE COURT: All right. Let's get through it.

5 MR. GILLIS: All right. Thank you.

6 (Proceedings continued in open court, as follows:)

7 THE COURT: All right. Mr. Gillis.

8 MR. GILLIS: Your Honor, I have spoken to
9 defense counsel. I was going to suggest that some of
10 the jurors be allowed to move into the empty seats
11 closer to the large screen, if the Court would permit
12 that.

13 THE COURT: Would the two jurors on the end
14 be able to see better in these seats? I'm happy to
15 have you move down here.

16 Oh, you're all right where you are.

17 Ma'am, would like to move, or are you
18 comfortable where you are?

19 A JUROR: I'm fine.

20 THE COURT: Why don't we proceed. If you
21 would like to at some point get a better view, just let
22 me know, and I'll try to accommodate you.

23 All right. Mr. Rosecrans, you remain under
24 oath.

25 THE WITNESS: Yes, sir.

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1 MR. GILLIS: With the Court's indulgence, may
2 I just go back to 15 and 16 for one moment, Your Honor?

3 THE COURT: Yes.

4 MR. GILLIS: So if I could ask that
5 Government's Exhibit 15 be brought up. If you could,
6 zoom in on the second and third paragraphs there.

7 Thank you for the eloquent outline. I have
8 met with the MFA and explained our proposed approach.
9 He is receptive and indicated he would like to meet
10 with us during his upcoming visit to D.C. As soon as
11 the visit dates are scheduled and confirmed, I will
12 inform you, and we can strategize how best to approach
13 the meeting.

14 That's Government's Exhibit 15, and the
15 subject of that is Truth.

16 Then, if we could, turn to Government
17 Exhibit 16 and just zoom in on the text of that e-mail:
18 Gentlemen, I just finished in Ankara after several
19 meetings today with Min of Economy Zeybekci and MFA
20 Cavusoglu. I have a green light to discuss
21 confidentiality, budget, and the scope of the contract.
22 I am flying to L.A. tomorrow at the request of the MFA.

23 That, Your Honor, is Government Exhibit 16,
24 and again, the subject is Truth.

25 Then, if we could, look, please, at

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1 Government's Exhibit 17. I believe that's in evidence.

2 If you could -- Government's Exhibit 16 was
3 dated August 11. Government's Exhibit 17 is dated
4 August -- pardon me. Exhibit 16 was August 10.
5 Exhibit 17 is August 11.

6 If you could, zoom in on the last two
7 paragraphs, "Mike and I" and "engagement purpose."

8 Mike and I have activated the FIG LAB as of
9 tonight and ready to push the start button immediately.

10 Engagement purpose: The business community
11 is engaging FIG to restore Confidence Through Clarity
12 in the trade and investment climate.

13 BY MR. GILLIS:

14 Q Would you, please, look at Government Exhibit 18A,
15 please. I beg your pardon. If you could, look at
16 Government's Exhibit 10. Can you tell us what that is,
17 please?

18 A Yes. This is an e-mail from Bijan Kian to Ekim
19 Alptekin on Saturday, July 30, 2016.

20 Q The subject is Truth?

21 A Yes.

22 MR. GILLIS: I move to admit Government's
23 Exhibit 10, Your Honor.

24 THE COURT: Any objection?

25 MR. TROUT: No, Your Honor.

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1 THE COURT: Government's Exhibit 10 is
2 admitted.

3 MR. GILLIS: If I could ask that the first
4 paragraph there be enlarged.

5 THE COURT: All right.

6 MR. GILLIS: This is from Bijan to Ekim: It
7 was my pleasure continuing our conversation today.
8 General Flynn and I have discussed broad contours of
9 the Truth Campaign.

10 If we could, zero in on the Phase Zero and
11 the bullets after that, please.

12 May the jury have a moment to read that, Your
13 Honor?

14 THE COURT: Yes.

15 All right.

16 BY MR. GILLIS:

17 Q Mr. Rosecrans, this is an e-mail from Bijan Kian
18 to Michael Flynn and Philip Oakley. It is the subject
19 Confidence Through Clarity Campaign; is that correct?

20 A Which?

21 Q Government Exhibit 18A. I'm sorry if I didn't ask
22 you to turn to that.

23 A 18A, Bijan Kian it's from and to Michael Flynn,
24 subject Confidence Through Clarity Campaign.

25 Q Is that correct?

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1 A Yes.

2 MR. GILLIS: Okay. I move to admit 18A,
3 please.

4 THE COURT: Any objection?

5 MR. TROUT: No objection.

6 THE COURT: Without objection, 18A is
7 admitted.

8 MR. GILLIS: If I could ask that we look,
9 first, at the first paragraph of 18A. This is also
10 dated August 11. The first paragraph says: We are
11 about to be engaged by a Dutch client for the above
12 campaign, Confidence Through Clarity.

13 Phil: I will brief you over Skype or on the
14 phone when we can talk on the phone. I have been given
15 high confidence that this engagement is imminent.

16 If I could ask that you zoom in now on the
17 Phase Zero on those bullets, please.

18 Is there any way to enlarge that?

19 THE COURT: All right.

20 MR. GILLIS: If I could ask that Government's
21 Exhibit 10 and Government's Exhibit 18A be displayed
22 side-by-side?

23 THE COURT: All right.

24 BY MR. GILLIS:

25 Q Mr. Rosecrans, where did you find Government's

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1 Exhibit 18A?

2 A 18A was found on one of the defendant's MacBook,
3 1B4 to be exact.

4 Q Could you look, please, at Government's
5 Exhibit 20? Do you have that in front of you?

6 A Yes, I do.

7 Q Could you tell us what that is, please?

8 A It is a representation of a Skype conversation.

9 Q Okay. What is the date of that conversation?

10 A August 25, 2016.

11 Q And who are the participants to this -- first of
12 all, this is from a Skype chat?

13 A Yes.

14 Q That you processed?

15 A Yes.

16 Q In the way that you've told us?

17 A Yes.

18 Q Okay. And the participants are?

19 A Ekim Alptekin and Bijan Kian.

20 Q Okay. And can you --

21 MR. GILLIS: First of all, Your Honor, I move
22 to admit Government's Exhibit 20.

23 THE COURT: Any objection?

24 MR. TROUT: Just the same limitation as
25 before.

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1 THE COURT: All right. The Court will admit
2 it for the limited purpose of establishing what
3 information was shared with Mr. Rafiekian.

4 BY MR. GILLIS:

5 Q Then if I could ask -- well, first of all, before
6 we go any further, first of all, the date on this is
7 August 25, 2016. How do you get that date?

8 A From the spreadsheet that I provided, it had the
9 date on it.

10 Q But I guess more specifically, in your examination
11 of the Skype chats, how do you know that that's the
12 date of the Skype chat itself?

13 A That information was extracted from the Skype
14 chat.

15 Q Okay. And how about the --

16 A That was on the --

17 Q I beg your pardon?

18 A It was on the Skype chat that was on 1B5.

19 Q And what about the times that are reflected there?

20 A There would be the times that would -- that this
21 conversation would have taken place.

22 Q No. I understand that, but where do you get --
23 how do you know that those are the times?

24 A Once again, it comes from the file that I
25 provided. And then that file was used to make a more

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1 viewable form for this presentation, and it provides
2 the appearance as you would see it on a computer
3 screen.

4 Q Okay. The parts on the left side that are in
5 blue, who is the writer there?

6 A Mr. Alptekin.

7 Q And the parts on the right side that are
8 highlighted in green, who is the writer there?

9 A Mr. Rafiekian.

10 MR. GILLIS: If I could ask you to zoom in on
11 the "okay thank you" and then down to this down here.

12 If I could read that: Okay. Thank you.
13 Let's talk tomorrow night. Assumingly, I will manage
14 to meet Number 1 tomorrow. If my flight delays, I
15 might not make the slot they gave me. I think I'm
16 meeting MC's boss, not direct boss, but you know who.

17 Then Alptekin goes on: My assumption based
18 on MC's request to come to Third Bridge opening
19 tomorrow for final instructions. Either way, he said
20 we are a full go.

21 BY MR. GILLIS:

22 Q Would you please look at --

23 MR. GILLIS: I beg your pardon, Your Honor.

24 BY MR. GILLIS:

25 Q If you could, please look at Government's

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1 Exhibit 67E.

2 MR. TROUT: Your Honor, excuse me. Could I
3 ask the Court just to -- because Mr. Gillis took the
4 opportunity to read that in, I think it would be
5 appropriate for the Court to remind the jury that it's
6 not admitted for the truth of the matter stated
7 therein.

8 THE COURT: All right.

9 A 67E?

10 Q 67E, that's another Skype chat between
11 Mr. Alptekin and Rafiekian; is that correct?

12 A Correct.

13 Q And the date is the same, August 25, 2016?

14 A Yes, sir.

15 Q Do you see there that Mr. Alptekin asks for the CV
16 of the general at the top?

17 A Yes.

18 MR. GILLIS: Have I moved to admit
19 Government's Exhibit 67E? I beg your pardon. I do
20 move it.

21 THE COURT: All right. The Court will admit
22 Government's Exhibit 67E.

23 Ladies and gentlemen, this document, like the
24 other ones, contains statements by both Mr. Rafiekian
25 and Mr. Alptekin. The statements by Mr. Alptekin are

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1 being admitted solely for the purpose of showing what
2 information was shared with Mr. Rafiekian, not as proof
3 of the truth of what is contained in those statements.

4 MR. GILLIS: Your Honor, may I ask that the
5 jury be instructed with respect to the defendant's
6 statements themselves.

7 THE COURT: There is no such restriction on
8 the statements by Mr. Rafiekian himself.

9 MR. GILLIS: Thank you, Your Honor.

10 If you could, just zoom in on the top two
11 balloons there.

12 BY MR. GILLIS:

13 Q Now, if you would, turn the page to the second
14 page of Exhibit 67E.

15 MR. GILLIS: And if you could, zoom in from
16 the profile of MF down to the last there, please.

17 BY MR. GILLIS:

18 Q Mr. Rafiekian refers to the profile for MF and
19 sending the e-mail on Virtru now.

20 Mr. Alptekin responds: Yes. Thank you.

21 Rather than profile, they asked for a full CV.

22 Please look at government's exhibit -- first, if
23 we can, return to Exhibit 20 on the second page.

24 Strike that. We'll move on. Thank you.

25 Government's Exhibit 21 is a Skype chat between

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1 the defendant and Mr. Alptekin. It's dated August 29
2 and 30.

3 MR. GILLIS: If I may move that in evidence,
4 Your Honor.

5 THE COURT: All right. It is admitted with
6 the same instructions.

7 MR. GILLIS: If you could, pull up those two
8 balloons there, please.

9 BY MR. GILLIS:

10 Q Mr. Rafiekian refers to the CV, and then
11 Mr. Alptekin responds: Hi Bijan, I received it in good
12 order. We are contemplating the best way to pay and
13 avoid additional cost. I will be depositing the total
14 200K on the FIG account. I will let you know when it's
15 settled and will honor the deadline. We are also
16 scheduling a meet with MF and MC and perhaps even RTE
17 this [sic] week in New York. Will keep you posted.

18 MR. TROUT: It says in the third week.

19 MR. GILLIS: I beg your pardon. In the third
20 week.

21 BY MR. GILLIS:

22 Q Where did you find Exhibit 21?

23 A Exhibit 21 is not on my sheet.

24 Q Can you turn to Exhibit 21? Do you have it in
25 front of you?

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1 A I do have Exhibit 21, and it would have come from
2 the 1B5 extract that I did. Then this conversation was
3 turned into this of which we're looking at right now.

4 Q Just to shorten things up, all of these Skype
5 chats came from the one computer, 1B5; is that correct?

6 A Yes.

7 Q That was the defendant's computer?

8 A Yes.

9 Q Would you turn to 67F.

10 A 67F.

11 Q That's a Skype chat between the defendant and
12 Alptekin. It's dated August 27, 2016, correct?

13 A Correct.

14 MR. GILLIS: I move to admit 67F, Your Honor.

15 THE COURT: All right. 67F is admitted,
16 again, for the limited purpose of showing what
17 information was shared with Mr. Rafiekian.

18 MR. GILLIS: Would you, please, zoom in on
19 the last three -- actually, all of those bullets,
20 please, all three -- four rather.

21 The link title is
22 exclusive-fbi-raids-home-of-ex-college-board-official-i
23 n-probe-of-sat-leak. That is from Alptekin. His next
24 statement is: I think there is a Gulenist link here.
25 They are doing in the U.S. what they are used to doing

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1 in Turkey. Of course, I prefer these reports coming
2 out after our engagement.

3 BY MR. GILLIS:

4 Q If you look, please, at Government's Exhibit 24A,
5 that's an e-mail from the defendant to Michael Flynn,
6 subject New York -- or rather, NYC-September 19th or
7 20th; is that right?

8 A Yes.

9 MR. GILLIS: I move to admit 24A.

10 THE COURT: Any objection?

11 MR. TROUT: The same limitation, Your Honor.

12 THE COURT: This is from --

13 MR. TROUT: I'm sorry. This is from him.

14 Sorry. Yes.

15 THE COURT: Exhibit 24A is admitted.

16 MR. TROUT: Right.

17 MR. GILLIS: May we give the jury a moment
18 with that?

19 BY MR. GILLIS:

20 Q If you turn to 24B, if you would, that's an e-mail
21 from the defendant to Michael Flynn dated November --
22 rather, September 9. The subject is September 19 or
23 20th.

24 MR. GILLIS: I move that exhibit, Your Honor.

25 BY MR. GILLIS:

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1 Q That's correct, first of all?

2 A Yes.

3 MR. GILLIS: I move that exhibit into
4 evidence, Your Honor.

5 MR. TROUT: The same limitation, Your Honor.

6 THE COURT: All right. Exhibit 24B is
7 admitted. The statements from Mr. Flynn are admitted
8 solely for the purpose of evidencing information shared
9 with Mr. Rafiekian. Mr. Rafiekian's statements
10 reflected in here are without that limitation.

11 MR. GILLIS: That e-mail from the defendant
12 reads: We don't have the details but will have it from
13 the client shortly. The duration will not exceed an
14 hour. As I mentioned, the meeting is with a high-level
15 audience, cabinet-plus level, related to Confidence. I
16 understand the difficulty to hold two days and have
17 told the client the same. I have asked them to get
18 back to me with some precision, and they have promised
19 to do so as soon as possible.

20 BY MR. GILLIS:

21 Q I would ask you to look at Government's
22 Exhibit 41.

23 A Exhibit 41.

24 Q This is a Skype chat between the defendant and
25 Alptekin. This one is dated September 14, 2016; is

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1 that correct?

2 A Yes, it is.

3 MR. GILLIS: I move 41, Your Honor.

4 THE COURT: All right. Exhibit 41 will be
5 admitted with the instruction that the statements of
6 Mr. Alptekin are limited solely for the purpose of
7 evidencing what was shared with Mr. Rafiekian.

8 MR. GILLIS: If I could ask you to zoom into
9 that last balloon, please.

10 BY MR. GILLIS:

11 Q There Alptekin tells the defendant: Actually,
12 MC's guy who is read into Project Confidence advised me
13 to include an op-ed that FIG would get published under
14 my name, but I didn't raise it as his advice aims to
15 help me score points in Turkey more than anything else.

16 BY MR. GILLIS:

17 Q Exhibit 26A, could you take a look at that,
18 please.

19 A 26A?

20 Q 26A. That's an e-mail from the defendant to
21 Michael Flynn that's dated September 18, 2016, with the
22 subject talking points; is that right?

23 A Yes.

24 MR. GILLIS: I move to admit 26A, Your Honor.

25 THE COURT: Any objection?

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1 MR. TROUT: No, Your Honor.

2 THE COURT: 26A is admitted.

3 MR. GILLIS: Then, if you would, please, zoom
4 in on the header down to Bijan, please.

5 BY MR. GILLIS:

6 Q Then would you turn to Government's Exhibit 26B.

7 A 26B.

8 Q 26B?

9 A Yep.

10 Q Is that the attachment to the e-mail 26A?

11 A Yes, it is.

12 MR. GILLIS: And I move to admit 26B, Your
13 Honor.

14 THE COURT: Any objection?

15 MR. TROUT: No, no objection.

16 THE COURT: 26B is admitted.

17 MR. GILLIS: If I could ask you to zoom in
18 from "background and talking points" down to this
19 bolden print here.

20 That reads: In 1978, a soft-spoken, gray
21 beard elderly Shia cleric sat under an apple tree in --
22 somewhere near Paris. He claimed that he was a man of
23 God, set out to topple a dictator. He said he has no
24 intention of taking over the government. He spoke of
25 love and compassion. He said his goal was to go to the

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1 mosque and pray. He said he will lead the people to
2 topple a dictator.

3 A perfect picture of peace and harmony aimed
4 at liberating the oppressed. The elderly cleric's name
5 was Ayatollah Ruhollah Khomeini.

6 If I could ask you to zoom in on
7 September 18, 2016, that's from the same talking
8 points. That reads: A soft-spoken, gray haired,
9 elderly Muslim cleric lives in a secluded compound in
10 Poconos, Pennsylvania. He claims to be a man of peace.
11 He encourages devout Muslims to build schools and not
12 mosques. He publicly promotes the ideas of tolerances
13 and denounces violence. According to close observers,
14 his followers jump if he orders them to jump. What his
15 staff and followers do not deny is that his movement
16 runs 130 or more publicly funded charter schools in 26
17 states all over the United States with at least 36 of
18 such charter schools in Texas. The schools don't teach
19 Islamic studies. Their focus is on math and science.

20 A perfect picture of peace and harmony aimed
21 at liberating the oppressed. The elderly cleric's name
22 is Fethullah Gulen.

23 BY MR. GILLIS:

24 Q If I could ask you to look at --

25 MR. GILLIS: May I have a moment, Your Honor?

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1 BY MR. GILLIS:

2 Q If you could, turn to Government's Exhibit 13.

3 That's an e-mail from the defendant to Alptekin. It's
4 dated August 4, 2016?

5 A Correct.

6 Q The subject is Truth; is that right?

7 A Correct.

8 MR. GILLIS: I move to admit 13, Your Honor.

9 THE COURT: Any objection?

10 MR. TROUT: No objection, Your Honor.

11 THE COURT: All right. Exhibit 13 is
12 admitted.

13 MR. TROUT: Let me just add that it does
14 include e-mails from Alptekin in there. As to those
15 e-mails, we would ask for the instruction.

16 THE COURT: Again, ladies and gentlemen, the
17 statements by anyone other than Mr. Rafiekian are
18 admitted solely for the purpose of showing what
19 information was shared with Mr. Rafiekian and not for
20 the truth of what's stated in those statements.

21 MR. GILLIS: So reading from Government's
22 Exhibit's 13, the August 4 e-mail with the subject
23 Truth, in the first paragraph, he refers to
24 investigative work and special investigation: The
25 longer the time distance between an event and active

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1 start of a special investigation, the lesser the effect
2 of revealing the truth. The main event becomes old
3 news and the findings less relevant.

4 Let me give you a real-life experience:
5 1978, a soft-spoken cleric sitting under an apple tree
6 somewhere in Paris -- France, rather, looked so
7 harmless, spoke of equality and spirituality, declared
8 that if he were to gain power, he would go to a
9 religious shrine and would not get into politics and
10 governance.

11 Sound familiar?

12 Your Honor, I would move into evidence all of
13 the exhibits listed on Government's Exhibit 68, the
14 e-mails that this witness found on the electronic
15 evidence that he described.

16 THE COURT: All right. Mr. Trout.

17 MR. TROUT: Yes. Just provisionally, we
18 would like --

19 THE COURT: All right. I'll conditionally
20 admit those subject to your review and any objections
21 you might have.

22 MR. TROUT: Right. They presumably will
23 include the same hearsay objection.

24 THE COURT: Yes.

25 MR. TROUT: Thank you.

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1 BY MR. GILLIS:

2 Q Then if I could ask you to look, please, at 163.

3 Actually, that's already in evidence.

4 MR. GILLIS: Your Honor, I would move that
5 all of those exhibits listed on 163 be admitted in
6 evidence.

7 THE COURT: All right. The same position,
8 Mr. Trout?

9 MR. TROUT: The same position, Your Honor.

10 THE COURT: All right. The Court will
11 conditionally admit the exhibits referenced in 163.

12 MR. GILLIS: That's all I have, Your Honor.

13 THE COURT: All right. Thank you.

14 Mr. Trout.

15 MR. TROUT: Excuse me, Your Honor. May I
16 have a moment?

17 THE COURT: Yes.

18 (Counsel confer.)

19 MR. TROUT: No questions.

20 THE COURT: All right. Thank you.

21 Mr. Rosecrans, you're excused. Do not
22 discuss your testimony outside of the courtroom with
23 any other witness.

24 THE WITNESS: Yes, sir.

25 THE COURT: Thank you.

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1 MR. GILLIS: Your Honor, I ask that he be
2 subject to recall.

3 THE COURT: All right. You will be subject
4 to recall. Just make yourself available. You may
5 leave the courthouse however.

6 (The witness stands aside.)

7 THE COURT: All right. The next witness,
8 Mr. Turgeon.

9 MR. TURGEON: Thank you, Your Honor. The
10 United States calls Jeffrey Gilday.

11 THE COURT: All right. Mr. Gilday will come
12 forward please.

13 JEFFREY GILDAY, PLAINTIFF'S WITNESS, AFFIRMED

14 DIRECT EXAMINATION

15 BY MR. TURGEON:

16 Q Can you please tell us your name?

17 A My name is Jeffrey Gilday.

18 Q How are you employed?

19 A I work for the Department of Justice in the FARA
20 Unit.

21 Q What is your position with the FARA Unit?

22 A I'm an intelligence research specialist.

23 Q What is the Foreign Agents Registration Act or
24 FARA?

25 A The Foreign Agents Registration Act is a statute

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1 where individuals or organizations within the United
2 States doing certain activities on behalf of a foreign
3 principal need to make periodic disclosures to the
4 Department of Justice through the FARA unit.

5 Q What is the purpose of FARA?

6 A The purpose of FARA is so the American public --
7 the messages that they are receiving or their elected
8 officials are receiving, if they are from a foreign
9 principal or from a foreign source, that disclosure is
10 made, and they are made aware of that.

11 Q How long have you been with the FARA Unit?

12 A In September, it will be 12 years.

13 Q What are your primary job functions with the FARA
14 Unit?

15 A My primary job functions are to review all of the
16 FARA filings and registrants that are assigned to me.

17 Q And who at the FARA Unit is the first person to
18 review those?

19 A The reviewer or someone like myself.

20 Q Now, I want to ask you about when someone has to
21 register under FARA. Who has to register under FARA?

22 MS. MITCHELL: Objection, Your Honor.

23 THE COURT: Yes. Let me see counsel.

24 (Conference at the bench, as follows:)

25 THE COURT: All right. What are you

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1 proposing to get out of this witness?

2 MR. TURGEON: Your Honor, he's going to talk
3 about the statute and the process for submitting FARA
4 restrictions. He's going to talk about what the
5 statute requires, which is something that he deals with
6 every day in reviewing filings and advising people on
7 the phone.

8 MS. MITCHELL: I would oppose that, Your
9 Honor. That's a legal issue that really is before Your
10 Honor. I don't have any sort of objection to the very
11 high-level -- you know, the people who are required.

12 THE COURT: The jury is going to be
13 instructed on what FARA requires. I think you can
14 bring out the process that he follows without asking
15 him to opine on what FARA actually, in fact, requires.

16 MR. TURGEON: Your Honor, the statute is
17 quite complex.

18 THE COURT: Right.

19 MS. MITCHELL: Right, exactly.

20 MR. TURGEON: So explaining to the jury --

21 THE COURT: That's the problem.

22 MR. TURGEON: That is why we called this
23 witness, Your Honor, explaining to the jury what FARA
24 requires and what --

25 THE COURT: That's the Court's obligation.

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1 That's the Court's job. We don't need a justice
2 department lawyer to explain to the jury what the law
3 is, but I think you can work through this by asking him
4 what kind of information he requires and what the
5 process is for filing. All right.

6 MR. TURGEON: So the information required of
7 registrants?

8 THE COURT: What information he requires of
9 registrants --

10 MR. TURGEON: Yes, sir.

11 THE COURT: -- during that process.

12 MR. TURGEON: Yes, Your Honor.

13 THE COURT: I don't think he should be
14 opining about what the whole statute requires.

15 MR. TURGEON: Your Honor, again, nothing, in
16 his planned testimony at least, concerns opining on
17 anything or comparing what was filed --

18 THE COURT: Well, I think you can take him
19 through what he requires among registrants.

20 MR. TURGEON: Thank you, Your Honor.

21 THE COURT: All right.

22 (Proceedings continued in open court, as follows:)

23 THE COURT: Mr. Turgeon.

24 MR. TURGEON: Thank you, Your Honor.

25 BY MR. TURGEON:

Gilday - Direct

1 Q If someone agrees to act as an agent of a foreign
2 principal in the United States, when are they required
3 to register under FARA?

4 A Once they have agreed to act on behalf of a
5 foreign principal, they have ten days to register and
6 they cannot act until they do register.

7 Q What is the Lobbying Disclosure Act or LDA?

8 A The Lobbying Disclosure Act is another disclosure
9 statute that is enforced by the U.S. Senate and U.S.
10 House of Representatives.

11 Q So when someone has to file a FARA registration,
12 what is the first step?

13 A You have to fill out a variety of forms.

14 Q Where does the registrant send those forms?

15 A To the FARA Unit either electronically or through
16 hard copy.

17 Q What happens to the forms after they're received
18 by the FARA Unit?

19 A They are assigned to a reviewer, and they are put
20 up on a website.

21 Q What website is that?

22 A It's fara.gov. It's the website the unit
23 administers.

24 Q Who has access to that website?

25 A Anyone with access to the Internet.

Gilday - Direct

1 Q So after a registration is uploaded to the public
2 website, does anyone at the FARA Unit perform an
3 initial screening of the registration?

4 A It is reviewed after it's gone up.

5 Q Who does that?

6 A The reviewer, somebody like myself.

7 Q What does a reviewer do when assigned a FARA
8 registration that someone has submitted?

9 A Go through the forms line by line to make sure
10 that the forms have been completed.

11 Q And what do you do if the forms haven't been
12 completed and the registrant has omitted information
13 that's required to be listed?

14 A I will reach out to the registrant and get it
15 resolved, work with them and get it resolved.

16 Q What happens if the registrant doesn't resolve a
17 deficiency?

18 A Then they're in violation of FARA.

19 Q Now, do you take any steps to investigate whether
20 the information listed on the forms is true or false?

21 A No.

22 Q Do you have the ability to investigate whether the
23 information on the forms is true or false?

24 A No.

25 Q Under the statute, which foreign programs does the

Gilday - Direct

1 registrant need to disclose on the forms?

2 A All of them.

3 Q If a foreign principal is providing direction or
4 supervision over a registrant's activities, does the
5 registrant need to list that foreign principal?

6 A Yes.

7 Q If one foreign principal is being supervised or
8 directed by another foreign principal, does the
9 registrant need to list that?

10 A Yes.

11 Q What if a registrant is acting on behalf of two
12 completely separate foreign principals? Does the
13 registrant need to list that?

14 A They would need to list them both.

15 Q What if the foreign principal is not the one
16 paying for the work? Does the registrant still need to
17 list that foreign principal even if it's not paying?

18 A Yes.

19 Q What if work is being done for one foreign
20 principal but another foreign principal is the one
21 paying?

22 A Then they both need to be disclosed.

23 Q When someone submits a FARA registration, what do
24 they need to disclose about agreements with foreign
25 principals?

Gilday - Direct

1 A If there is a signed executed contract, that needs
2 to be uploaded with the registration documents. If
3 that doesn't exist and -- for example, if the agreement
4 is an exchange of communication, those communications
5 need to be disclosed. Even then, if that doesn't
6 exist, then a narrative of the terms of the agreement
7 need to be disclosed on the forms.

8 Q If a registrant has multiple contracts with a
9 foreign principal, do all of those contracts need to be
10 attached?

11 A Yes.

12 Q When someone submits a FARA registration, what do
13 they need to disclose about the activities they're
14 going to engage in?

15 A They need to disclose all the activities they've
16 agreed to do.

17 Q What if a registrant does something that benefits
18 the foreign principal but the activity isn't directed
19 by the foreign principal? Does that need to be
20 disclosed?

21 A Yes.

22 Q Under statute, what ongoing requirements are there
23 for a registrant to report the work that the registrant
24 did for the foreign principal?

25 A Every registrant every six months needs to file a

Gilday - Direct

1 supplemental statement which discloses the prior six
2 months activities, financial information, and that kind
3 of stuff.

4 Q Okay. I'd like to show you what's been marked as
5 Government Exhibit 154. What is this for?

6 A This is a supplemental statement. This is what
7 would be filed every six months.

8 Q Is this particular form filled out, or is it
9 blank?

10 A No. This form appears to be blank.

11 Q Was this the supplemental statement form that was
12 in effect in March 2017?

13 A Yes.

14 Q How do you know that?

15 A On the top of the form, it says this form expired
16 April 30, 2017, which would be after that date.

17 MR. TURGEON: Your Honor, the government
18 moves Exhibit 154 --

19 THE COURT: Any objection?

20 MR. TURGEON: -- into evidence.

21 MS. MITCHELL: No objection.

22 THE COURT: Without objection, Exhibit 154 is
23 admitted.

24 MR. TURGEON: Thank you, Your Honor.

25 BY MR. TURGEON:

Gilday - Direct

1 Q Now, I want to ask you about some specific
2 categories of information that FARA requires
3 registrants to disclose.

4 A Okay.

5 Q First, I want to talk about the flow of money.
6 Could you, please, take a look at Government
7 Exhibit 154.

8 A Yes.

9 Q On page 5 of that form, what category is listed
10 there?

11 A Financial information.

12 Q Could you take a look at Entry 14A, please. On
13 that form, what receipts of money by the registrant
14 need to be disclosed?

15 A Any money that the registrant received from the
16 foreign principal.

17 Q Okay. Now, take a look at Entry No. 15 on the
18 next page, please. What payments by the registrant
19 need to be disclosed there?

20 A Any money that the registrant disbursed on behalf
21 of the activities of the foreign principal.

22 Q Okay. Next I want to talk about lobbying. Do the
23 FARA forms require that registrants disclose their
24 political activities for foreign principals?

25 A Yes.

Gilday - Direct

1 Q Is lobbying one of those political activities?

2 A Yes.

3 Q Does FARA require that the registrant do anything
4 before lobbying for the foreign principal?

5 A If you are lobbying on behalf of a foreign
6 principal, you need to disclose to the individual
7 you're lobbying to that you are working on behalf of a
8 foreign principal.

9 Q Do you need to say which foreign principal that
10 is?

11 A Any foreign principal that you're acting for, that
12 you're lobbying on behalf of.

13 Q No. My question was, do you need to identify
14 which foreign principal?

15 A Yes. Yes.

16 Q And to whom does that need to be disclosed?

17 A To the individual or individuals that you're
18 lobbying to.

19 Q And when does that need to happen?

20 A Right in the beginning.

21 Q What if the registrant calls a member of Congress
22 to set up a meeting for lobbying? Is that something
23 required to be disclosed on the supplemental statement?

24 A Yes, it is.

25 Q So could you, please, take a look at Entry No. 12

Gilday - Direct

1 on that same form. It's on page 4. On that
2 supplemental statement, after the fact, what needs to
3 be disclosed about lobbying for a foreign principal?

4 A For Item 12 under political activity, you would
5 need to disclose the date of the contact that you made,
6 the person you made it to, the mode of which you made
7 it, whether it's an e-mail or a phone call, or an
8 in-person meeting, and then what it was about.

9 Q Okay. Now, I want to talk about publications. In
10 general, do the FARA forms require that registrants
11 disclose informational materials that they disseminate
12 to foreign principals?

13 A Yes.

14 Q Do publications, such as op-ed articles, qualify
15 as informational materials?

16 A Yes.

17 Q If a registrant reaches out to a media outlet to
18 try to get an article published on behalf of a foreign
19 principal, is that something that needs to be disclosed
20 on the forms?

21 A Yes.

22 Q What sort of disclosure does the registrant or
23 does the person reaching out need to make at that time?

24 A At that time, you would -- the registrant would
25 need to disclose who the foreign principal is and that

Gilday - Direct

1 they are registered for that foreign principal at the
2 Department of Justice.

3 Q And who do they disclose that to?

4 A To anyone if they're making inquiry about posting
5 that particular op-ed or any other informational
6 material.

7 Q When does that disclosure need to happen?

8 A Right in the very beginning.

9 Q When a registrant is getting an article published
10 on behalf of a foreign principal, are there any
11 disclosure obligations on FARA forms for that?

12 A On the FARA forms, there are. There also is --
13 you have to put a conspicuous label on the
14 informational material being disseminated stating
15 that -- who you are as the registrant, who you're
16 working on behalf of, the foreign principal, and that
17 more information can be found at the Department of
18 Justice.

19 Q Does that rule still apply when something is
20 published online?

21 A Yes.

22 Q How does the DOJ get a copy of that article?

23 A It is the responsibility of the registrant to
24 submit a copy of any disseminated information to the
25 FARA office within 48 hours of its dissemination.

Gilday - Direct

1 Q And after the fact, are there additional
2 requirements under FARA about disclosing informational
3 materials?

4 A When you file the supplemental statement, there is
5 a section where you detail all the information about
6 that kind of activity.

7 Q Okay. Let's take a look at that. Can you look
8 back at Exhibit 154, please, on page 8? What category
9 does that page address?

10 A Informational materials.

11 Q Take a look at Entry No. 17, please. What needs
12 to be disclosed there?

13 A All the foreign principals that you're
14 disseminating informational materials on behalf of.

15 Q Okay. Now take a look at Entry No. 18, please.
16 What needs to be disclosed there?

17 A If there was any budget allocated for the
18 activities of disseminating informational materials.

19 Q And Entry No. 19, what needs to be disclosed
20 there?

21 A Any that apply, any publications that the
22 registrant reached out to or the mode of the
23 information needs to be disclosed there.

24 Q Okay. Now Entry No. 20 is next. What needs to be
25 disclosed there?

Gilday - Direct

1 A Again, all that applies. So whoever you're
2 directing this informational material to needs to be
3 disclosed here.

4 Q Now, please take a look at Entry No. 22. What
5 does that ask about?

6 A It asks the registrant if they filed with the FARA
7 Unit a copy of the disseminated materials.

8 Q Finally, please take a look at Entry No. 23. What
9 does that ask about?

10 A It asks if the disseminated informational
11 materials had the required label on them when they were
12 disseminated.

13 Q Okay. I'd like to show you six exhibits which
14 have been marked as Government Exhibits 56, 58, 61, 64,
15 65, and 66. The first one was 56. Collectively, what
16 are these documents?

17 A They are registration forms that one would need to
18 fill out if they want to register under FARA.

19 Q Who filled out -- on whose behalf -- strike that.
20 Who is the registrant for these particular forms?

21 A The Flynn Intel Group.

22 Q When was this filing made?

23 A It was made on March 7, 2017.

24 Q Have you seen these documents before?

25 A Yes.

Gilday - Direct

1 Q In what context did you see them?

2 A After this organization registered, it was
3 assigned to me as the reviewer.

4 Q And did you review it?

5 A Yes.

6 MR. TURGEON: Your Honor, the government
7 moves to admit the Flynn Intel Group FARA filing,
8 Exhibits 56, 58, 61, 64, 65, and 66 into evidence.

9 THE COURT: Any objection?

10 MS. MITCHELL: None, Your Honor.

11 THE COURT: Without objection, Government's
12 Exhibits 56, 58, 61, 64, 65, and 66 are admitted.

13 MR. TURGEON: Thank you.

14 BY MR. TURGEON:

15 Q Did the Flynn Intel Group file a copy of an op-ed
16 with its FARA registration?

17 A No.

18 Q Did the Flynn Intel Group attach copies of any
19 informational materials to its FARA registration?

20 A No.

21 Q To your knowledge, did the Flynn Intel Group ever
22 provide a copy of an op-ed to the FARA Unit?

23 A Not to my knowledge, no.

24 Q Okay. I would like to show you what's been marked
25 as Government Exhibits 147, 148, and 149, please.

Gilday - Direct

1 Do you have 147?

2 A Yes.

3 Q Collectively, what are these forms?

4 A These are, again, registration documents that a
5 registrant would need to fill out if they want to
6 register under FARA.

7 Q Who filled out these particular forms?

8 A Amsterdam & Partners, LLP.

9 Q Is Amsterdam & Partners the registrant for those
10 forms?

11 A Yes.

12 Q Have you seen these forms before?

13 A Yes.

14 Q In what context did you see them?

15 A Similar to the other one, I was assigned -- I was
16 the assigned reviewer for this registration.

17 MR. TURGEON: Your Honor, the government
18 moves to admit Exhibits 147, 148, and 149 into
19 evidence.

20 THE COURT: Any objection?

21 MS. MITCHELL: None, Your Honor.

22 THE COURT: Exhibits 147, 148, and 149 are
23 admitted.

24 MR. TURGEON: Thank you.

25 BY MR. TURGEON:

Gilday - Direct

1 Q Could you take a look at Exhibit 148, please.

2 Under Entry No. 3, who is listed as the foreign

3 principal that Amsterdam & Partners was acting on

4 behalf of?

5 A The Republic of Turkey.

6 Q When did Amsterdam & Partners register as an agent

7 of the government of Turkey?

8 A October 26, 2015.

9 Q Is this registration still active?

10 A Yes.

11 Q Okay. Could you, please, direct your attention to

12 Exhibit 149. What is that form?

13 A This is a short form registration statement.

14 Q What does a short form registration statement

15 disclose?

16 A It discloses individuals who have agreed to do the

17 activity on behalf of the foreign principal.

18 Q What does this particular short form disclose?

19 A It discloses Mr. Robert R. Amsterdam has agreed to

20 do activity on behalf of the Republic of Turkey through

21 Amsterdam & Partners.

22 Q Could you, please, turn to the second page of that

23 document at the bottom. Who signed this form?

24 A Robert R. Amsterdam.

25 MR. TURGEON: Could I have the Court's

Gilday - Cross

1 indulgence for a moment, Your Honor?

2 THE COURT: Yes.

3 MR. TURGEON: No further questions, Your
4 Honor. Thank you.

5 THE COURT: All right. Ms. Mitchell, any
6 cross?

7 MS. MITCHELL: One moment, Your Honor.

8 CROSS-EXAMINATION

9 BY MS. MITCHELL:

10 Q Good afternoon, Mr. Gilday. How are you?

11 A I am well. How are you?

12 Q I'm fine. Thank you.

13 My name is Stacey Mitchell, and I represent the
14 defendant here.

15 You and I have never spoken before; is that
16 correct?

17 A No, ma'am.

18 Q All right. You're responsible within the FARA
19 Unit. Are you assigned particular countries for which
20 you receive and take primary responsibility in
21 reviewing FARA filings?

22 A That is correct, yes.

23 Q And what areas are those?

24 A It's kind of random. It's just -- there's four
25 different reviewers, but even though some of us have

Gilday - Cross

1 different tasks than others, my responsibility is
2 mainly reviewing these forms. So I get assigned more
3 countries, but there really -- it's more random than
4 anything else how they get assigned.

5 Q Okay. Do you have responsibility for the country
6 of Turkey?

7 A I do.

8 Q So any filing that pertains to the country of
9 Turkey comes through you?

10 A It does except in the -- it's got to be -- when
11 someone registers for the first time -- so when an
12 initial registration comes in, if they're a registrant
13 for Turkey, it gets assigned to me at that point.
14 There was a scenario where an organization registers
15 for a country that I normally would not get assigned,
16 but then they add Turkey as a foreign principal later
17 on. Then in that case, it stays with the original
18 reviewer, and it won't get over to me.

19 Q That makes sense. Thank you.

20 But anyone that is registering the first time and
21 it's with Turkey, that would be reviewed by you?

22 A Yes, ma'am.

23 Q Do you assist at all in the compilation at the end
24 of the year that the justice department puts together,
25 the submission by the attorney general to Congress?

Gilday - Cross

1 A Yes.

2 Q And is it your obligation to ensure that each of
3 the filings, for instance, for Turkey are recorded in
4 that document?

5 A Yes.

6 Q Great.

7 I want to turn your attention back to the
8 documents that Mr. Turgeon had you look at, the
9 registration filed on behalf of the Flynn Intel Group,
10 which were Government's Exhibits 56, 58, 61, and 64.

11 MS. MITCHELL: Those are admitted. If I
12 could also have them brought up, that would be great.

13 A What was the first one?

14 Q Sure. Actually, you know what? I think you can
15 look at the screen and let this gentleman help you
16 along. So if we can, look, first, at Exhibit 56 that
17 you were looking at previously. That was the
18 registration statement for the Flynn Intel Group; is
19 that correct?

20 A Yes, ma'am.

21 Q And if you could, turn to -- well, we will direct
22 your attention to the second-to-last page of that.
23 That has been signed, and who is that signed by?

24 A Michael T. Flynn.

25 Q All right. Thank you.

Gilday - Cross

1 I want to direct your attention now to Government
2 Exhibit 58, which will be pulled up, and then have you
3 look at page 2 on that at the bottom. Who is that
4 signed by?

5 A Michael T. Flynn.

6 Q Great. Thank you.

7 Turn now to Exhibit 61 if you would, please. I
8 direct your attention to that. Let's have you look at
9 page 9 of that. Who is that signed by?

10 A Michael T. Flynn.

11 Q All right. Thank you.

12 So your assessment is that Mike Flynn is the
13 registrant that's signing -- the individual signing on
14 behalf of this registrant; is that correct?

15 A Yes, ma'am.

16 Q When you received this filing, it came in
17 electronically; is that correct?

18 A Yes, ma'am.

19 Q Did you also receive a cover letter that was
20 submitted at the same time?

21 A If it was submitted at the same time, I would have
22 received it, yes.

23 MS. MITCHELL: Can I have him look at
24 Defendant's Exhibit 70, please, for identification --
25 I'm sorry -- 60.

G i l d a y - C r o s s

1 THE COURT: Exhibit 60?

2 MS. MITCHELL: Yes, Your Honor, Defense

3 Exhibit 60.

4 BY MS. MITCHELL:

5 Q Have you seen that document before?

6 A Yes.

7 Q Now that you have looked at it, did that document
8 get submitted at the same time as the other documents?

9 A I believe so. What was the date stamp date on the
10 initial registration statement?

11 Q That date -- I'm looking at Exhibit 57 -- is
12 March 7, 2017, at 6:02:45 p.m.

13 A Then yes, ma'am, they were all submitted at the
14 same time.

15 Q When you receive a letter like this, do you review
16 it for its content as well?

17 A Yes.

18 Q So you would take into account what's in the cover
19 letter in addition to what's in the filings that we've
20 just gone through?

21 A Yes.

22 MS. MITCHELL: I would offer Defendant's
23 Exhibit 70.

24 THE COURT: Exhibit 60?

25 MS. MITCHELL: Yes, 60.

G i l d a y - C r o s s

1 THE COURT: Any objection?

2 MR. TURGEON: No, Your Honor.

3 THE COURT: Without objection, Defense
4 Exhibit 60 is admitted.

5 BY MS. MITCHELL:

6 Q Directing your attention now, if I could -- you
7 looked with Mr. Turgeon at two government exhibits, 148
8 and 149, which were the Amsterdam & Partners filing
9 with respect to their work in Turkey, correct?

10 A Yes, ma'am.

11 Q You indicated that it's still valid, right?

12 A Yes. As far as I know, they are still active.

13 Q But they have obligations to file six-month
14 reports, as well as annual submissions, correct?

15 A Well, they have to file every six months. So it's
16 semiannual.

17 Q Right. So I'd like to direct your attention, if I
18 could, to Defendant's Exhibits -- and I hope they're in
19 front of you -- 69, 72, 73, 76, 78 --

20 A No.

21 Q Not so lucky.

22 -- 78, 81, and 82.

23 A Yes.

24 Q Those are six-month filings by the Amsterdam &
25 Partners; is that correct?

Gilday - Cross

1 A Yes. It appears that way, yes.

2 Q These were are all received in the FARA Unit; is
3 that correct?

4 A Yes, ma'am.

5 MS. MITCHELL: We would offer each of these
6 exhibits, Your Honor.

7 THE COURT: Any objection?

8 MR. TURGEON: Can I have one moment to
9 confer, Your Honor?

10 THE COURT: Yes.

11 (Counsel confer.)

12 MS. MITCHELL: Your Honor, if we could have
13 the Court's indulgence one moment.

14 THE COURT: All right. Ms. Mitchell, thank
15 you.

16 We'll go ahead and take our luncheon recess
17 at this time. You're excused until 2:00. Please do
18 not discuss this case among yourselves during the
19 luncheon recess.

20 (The jury exits at 1:04 p.m.)

21 THE COURT: All right. We'll stand in recess
22 until 2:00.

23 Mr. Gilday, do not discuss your testimony
24 during the luncheon recess.

25 THE WITNESS: Yes, sir.

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THE COURT: The Court will stand in recess.

Time: 1:05 p.m.

I certify that the foregoing is a true and
accurate transcription of my stenographic notes.

/s/
Rhonda F. Montgomery, CCR, RPR